

**As Reported by the Senate Health, Human Services and Aging  
Committee**

**126th General Assembly  
Regular Session  
2005-2006**

**Sub. S. B. No. 251**

**Senators Spada, Hagan**

—

**A B I L L**

To amend sections 127.16, 2921.13, 5110.01, 5110.02, 1  
5110.05, 5110.08, 5110.09, 5110.12, 5110.13, 2  
5110.16, 5110.17, 5110.18, 5110.19, 5110.21, 3  
5110.23, 5110.29, 5110.32, 5110.33, 5110.35, 4  
5110.352, 5110.353, 5110.354, 5110.38, 5110.39, 5  
5110.55, 5110.56, 5110.57, 5110.58, and 5110.59; 6  
to amend, for the purpose of adopting new section 7  
numbers as indicated in parentheses, sections 8  
5110.05 (5110.14), 5110.07 (5110.16), 5110.08 9  
(5110.17), 5110.09 (5110.18), 5110.12 (5110.20), 10  
5110.13 (5110.21), 5110.16 (5110.22), 5110.17 11  
(5110.23), 5110.18 (5110.24), 5110.19 (5110.25), 12  
5110.21 (5110.27), 5110.23 (5110.54), 5110.29 13  
(5110.11), 5110.32 (5110.42), 5110.33 (5110.43), 14  
and 5110.39 (5110.13); to enact new sections 15  
5110.03, 5110.05, 5110.07, 5110.08, 5110.09, 16  
5110.10, 5110.12, 5110.15, 5110.19, 5110.26, 17  
5110.28, 5110.29, 5110.32, and 5110.39 and 18  
sections 5110.021, 5110.04, 5110.30, and 5110.31; 19  
and to repeal sections 5110.03, 5110.10, 5110.11, 20  
5110.14, 5110.15, 5110.22, 5110.25, 5110.26, 21  
5110.27, 5110.28, and 5110.351 of the Revised Code 22  
to modify the Ohio's Best Rx Program; and to amend 23  
sections 127.16, 173.06, 173.062, 173.99, 2921.13, 24

5110.01, 5110.02, 5110.021, 5110.03, 5110.04,	25
5110.05, 5110.07, 5110.08, 5110.09, 5110.10,	26
5110.11, 5110.12, 5110.13, 5110.14, 5110.15,	27
5110.16, 5110.17, 5110.18, 5110.19, 5110.20,	28
5110.21, 5110.22, 5110.23, 5110.24, 5110.25,	29
5110.26, 5110.27, 5110.28, 5110.29, 5110.30,	30
5110.31, 5110.32, 5110.35, 5110.352, 5110.353,	31
5110.354, 5110.36, 5110.37, 5110.38, 5110.39,	32
5110.40, 5110.42, 5110.43, 5110.45, 5110.47,	33
5110.54, 5110.55, 5110.56, 5110.57, 5110.58, and	34
5110.59; to amend, for the purpose of adopting new	35
section numbers as indicated in parentheses,	36
sections 173.062 (173.061), 5110.01 (173.71),	37
5110.02 (173.72), 5110.021 (173.721), 5110.03	38
(173.73), 5110.04 (173.731), 5110.05 (173.732),	39
5110.07 (173.74), 5110.08 (173.741), 5110.09	40
(173.742), 5110.10 (173.75), 5110.11 (173.751),	41
5110.12 (173.752), 5110.13 (173.753), 5110.14	42
(173.76), 5110.15 (173.77), 5110.16 (173.771),	43
5110.17 (173.772), 5110.18 (173.773), 5110.19	44
(173.78), 5110.20 (173.79), 5110.21 (173.791),	45
5110.22 (173.80), 5110.23 (173.801), 5110.24	46
(173.802), 5110.25 (173.803), 5110.26 (173.81),	47
5110.27 (173.811), 5110.28 (173.812), 5110.29	48
(173.813), 5110.30 (173.814), 5110.31 (173.815),	49
5110.32 (173.82), 5110.35 (173.83), 5110.352	50
(173.831), 5110.353 (173.832), 5110.354 (173.833),	51
5110.36 (173.84), 5110.37 (173.722), 5110.38	52
(173.724), 5110.39 (173.861), 5110.40 (173.723),	53
5110.42 (173.85), 5110.43 (173.86), 5110.45	54
(173.87), 5110.46 (173.871), 5110.47 (173.872),	55
5110.48 (173.873), 5110.49 (173.874), 5110.50	56
(173.875), 5110.51 (173.876), 5110.54 (173.88),	57

5110.55 (173.89), 5110.56 (173.891), 5110.57 58  
(173.892), 5110.58 (173.90), and 5110.59 (173.91); 59  
and to repeal sections 173.061, 173.07, 173.071, 60  
173.072, and 5110.99 of the Revised Code on July 61  
1, 2007, to eliminate the prescription drug 62  
component of the Golden Buckeye Card Program and 63  
to transfer the Ohio's Best Rx Program to the 64  
Department of Aging. 65

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

**Section 1.** That sections 127.16, 2921.13, 5110.01, 5110.02, 66  
5110.05, 5110.08, 5110.09, 5110.12, 5110.13, 5110.16, 5110.17, 67  
5110.18, 5110.19, 5110.21, 5110.23, 5110.29, 5110.32, 5110.33, 68  
5110.35, 5110.352, 5110.353, 5110.354, 5110.38, 5110.39, 5110.55, 69  
5110.56, 5110.57, 5110.58, and 5110.59 be amended; sections 70  
5110.05 (5110.14), 5110.07 (5110.16), 5110.08 (5110.17), 5110.09 71  
(5110.18), 5110.12 (5110.20), 5110.13 (5110.21), 5110.16 72  
(5110.22), 5110.17 (5110.23), 5110.18 (5110.24), 5110.19 73  
(5110.25), 5110.21 (5110.27), 5110.23 (5110.54), 5110.29 74  
(5110.11), 5110.32 (5110.42), 5110.33 (5110.43), and 5110.39 75  
(5110.13) be amended for the purpose of adopting new sections 76  
numbers as indicated in parentheses; and new sections 5110.03, 77  
5110.05, 5110.07, 5110.08, 5110.09, 5110.10, 5110.12, 5110.15, 78  
5110.19, 5110.26, 5110.28, 5110.29, 5110.32, and 5110.39 and 79  
sections 5110.021, 5110.04, 5110.30, and 5110.31 of the Revised 80  
Code be enacted to read as follows: 81

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

section.	87
(B) Except as otherwise provided in this section, no state	88
agency, using money that has been appropriated to it directly,	89
shall:	90
(1) Make any purchase from a particular supplier, that would	91
amount to fifty thousand dollars or more when combined with both	92
the amount of all disbursements to the supplier during the fiscal	93
year for purchases made by the agency and the amount of all	94
outstanding encumbrances for purchases made by the agency from the	95
supplier, unless the purchase is made by competitive selection or	96
with the approval of the controlling board;	97
(2) Lease real estate from a particular supplier, if the	98
lease would amount to seventy-five thousand dollars or more when	99
combined with both the amount of all disbursements to the supplier	100
during the fiscal year for real estate leases made by the agency	101
and the amount of all outstanding encumbrances for real estate	102
leases made by the agency from the supplier, unless the lease is	103
made by competitive selection or with the approval of the	104
controlling board.	105
(C) Any person who authorizes a purchase in violation of	106
division (B) of this section shall be liable to the state for any	107
state funds spent on the purchase, and the attorney general shall	108
collect the amount from the person.	109
(D) Nothing in division (B) of this section shall be	110
construed as:	111
(1) A limitation upon the authority of the director of	112
transportation as granted in sections 5501.17, 5517.02, and	113
5525.14 of the Revised Code;	114
(2) Applying to medicaid provider agreements under Chapter	115
5111. of the Revised Code or payments or provider agreements under	116
the disability medical assistance program established under	117

Chapter 5115. of the Revised Code;	118
(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;	119 120 121
(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;	122 123 124 125 126 127 128 129 130
(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;	131 132 133 134
(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.	135 136 137 138 139 140 141 142
(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;	143 144 145
(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in	146 147 148

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	200
services to the United States department of health and human	201
services for printing and mailing notices pertaining to the tax	202
refund offset program of the internal revenue service of the	203
United States department of the treasury;	204
(27) Applying to contracts entered into by the department of	205
mental retardation and developmental disabilities under sections	206
5123.18, 5123.182, and 5123.199 of the Revised Code;	207
(28) Applying to payments made by the department of mental	208

health under a physician recruitment program authorized by section	209
5119.101 of the Revised Code;	210
(29) Applying to contracts entered into with persons by the	211
director of commerce for unclaimed funds collection and remittance	212
efforts as provided in division (F) of section 169.03 of the	213
Revised Code. The director shall keep an itemized accounting of	214
unclaimed funds collected by those persons and amounts paid to	215
them for their services.	216
(30) Applying to purchases made by a state institution of	217
higher education in accordance with the terms of a contract	218
between the vendor and an inter-university purchasing group	219
comprised of purchasing officers of state institutions of higher	220
education;	221
(31) Applying to the department of job and family services'	222
purchases of health assistance services under the children's	223
health insurance program part I provided for under section 5101.50	224
of the Revised Code or the children's health insurance program	225
part II provided for under section 5101.51 of the Revised Code;	226
(32) Applying to payments by the attorney general from the	227
reparations fund to hospitals and other emergency medical	228
facilities for performing medical examinations to collect physical	229
evidence pursuant to section 2907.28 of the Revised Code;	230
(33) Applying to contracts with a contracting authority or	231
administrative receiver under division (B) of section 5126.056 of	232
the Revised Code;	233
(34) Applying to reimbursements paid to the United States	234
department of veterans affairs for pharmaceutical and patient	235
supply purchases made on behalf of the Ohio veterans' home agency;	236
(35) Applying to agreements <del>the department of job and family</del>	237
<del>services enters</del> <u>entered</u> into with terminal distributors of	238



dangerous drugs under section <del>5110.12</del> <u>5110.20</u> of the Revised Code.	239
(E) Notwithstanding division (B)(1) of this section, the	240
cumulative purchase threshold shall be seventy-five thousand	241
dollars for the departments of mental retardation and	242
developmental disabilities, mental health, rehabilitation and	243
correction, and youth services.	244
(F) When determining whether a state agency has reached the	245
cumulative purchase thresholds established in divisions (B)(1),	246
(B)(2), and (E) of this section, all of the following purchases by	247
such agency shall not be considered:	248
(1) Purchases made through competitive selection or with	249
controlling board approval;	250
(2) Purchases listed in division (D) of this section;	251
(3) For the purposes of the thresholds of divisions (B)(1)	252
and (E) of this section only, leases of real estate.	253
(G) As used in this section, "competitive selection,"	254
"purchase," "supplies," and "services" have the same meanings as	255
in section 125.01 of the Revised Code.	256
<b>Sec. 2921.13.</b> (A) No person shall knowingly make a false	257
statement, or knowingly swear or affirm the truth of a false	258
statement previously made, when any of the following applies:	259
(1) The statement is made in any official proceeding.	260
(2) The statement is made with purpose to incriminate	261
another.	262
(3) The statement is made with purpose to mislead a public	263
official in performing the public official's official function.	264
(4) The statement is made with purpose to secure the payment	265
of unemployment compensation; Ohio works first; prevention,	266
retention, and contingency benefits and services; disability	267

financial assistance; retirement benefits; economic development 268  
assistance, as defined in section 9.66 of the Revised Code; or 269  
other benefits administered by a governmental agency or paid out 270  
of a public treasury. 271

(5) The statement is made with purpose to secure the issuance 272  
by a governmental agency of a license, permit, authorization, 273  
certificate, registration, release, or provider agreement. 274

(6) The statement is sworn or affirmed before a notary public 275  
or another person empowered to administer oaths. 276

(7) The statement is in writing on or in connection with a 277  
report or return that is required or authorized by law. 278

(8) The statement is in writing and is made with purpose to 279  
induce another to extend credit to or employ the offender, to 280  
confer any degree, diploma, certificate of attainment, award of 281  
excellence, or honor on the offender, or to extend to or bestow 282  
upon the offender any other valuable benefit or distinction, when 283  
the person to whom the statement is directed relies upon it to 284  
that person's detriment. 285

(9) The statement is made with purpose to commit or 286  
facilitate the commission of a theft offense. 287

(10) The statement is knowingly made to a probate court in 288  
connection with any action, proceeding, or other matter within its 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 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 ~~5110.09~~ 5110.18 of the Revised Code or a payment ~~from the department of job and family services~~ under section ~~5110.17~~ 5110.23 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) 329  
of section 2923.125 of the Revised Code. 330

(D) It is no defense to a charge under division (A)(6) of 331  
this section that the oath or affirmation was administered or 332  
taken in an irregular manner. 333

(E) If contradictory statements relating to the same fact are 334  
made by the offender within the period of the statute of 335  
limitations for falsification, it is not necessary for the 336  
prosecution to prove which statement was false but only that one 337  
or the other was false. 338

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 339  
(6), (7), (8), (10), (11), (13), (14), or (16) of this section is 340  
guilty of falsification, a misdemeanor of the first degree. 341

(2) Whoever violates division (A)(9) of this section is 342  
guilty of falsification in a theft offense. Except as otherwise 343  
provided in this division, falsification in a theft offense is a 344  
misdemeanor of the first degree. If the value of the property or 345  
services stolen is five hundred dollars or more and is less than 346  
five thousand dollars, falsification in a theft offense is a 347  
felony of the fifth degree. If the value of the property or 348  
services stolen is five thousand dollars or more and is less than 349  
one hundred thousand dollars, falsification in a theft offense is 350  
a felony of the fourth degree. If the value of the property or 351  
services stolen is one hundred thousand dollars or more, 352  
falsification in a theft offense is a felony of the third degree. 353

(3) Whoever violates division (A)(12) or (B) of this section 354  
is guilty of falsification to purchase a firearm, a felony of the 355  
fifth degree. 356

(4) Whoever violates division (A)(15) or (C) of this section 357  
is guilty of falsification to obtain a concealed handgun license, 358  
a felony of the fourth degree. 359

(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 registered for a drug pursuant to the listing system established by the United States food and drug administration under the "Drug Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended.

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

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

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

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

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

~~(2) The amount of the administrative fee, if any, the department of job and family services reports to the participating terminal distributor under section 5110.29 of the Revised Code.~~ 409-411

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

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

~~(L) "Per unit price," with regard to a state health benefit plan or state retirement system health benefit plan, means the total amount paid to a terminal distributor of dangerous drugs under a state health benefit plan or state retirement system health benefit plan for one unit of a drug covered by the plan, after the plan discounts or otherwise reduces the amount to be paid to the terminal distributor. "Per unit price" includes both of the following:~~ 421  
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~~(1) The amount that the state health benefit plan or state retirement system health benefit plan, or other government entity or person authorized to make the payment on behalf of the plan, pays to the terminal distributor of dangerous drugs;~~ 429  
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~~(2) The amount that the beneficiary of the state health benefit plan or state retirement system health benefit plan pays to the terminal distributor of dangerous drugs in the form of a copayment, coinsurance, or other cost sharing charge.~~ 433  
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~~(M) "Per unit rebate," with regard to a state health benefit plan or state retirement system health benefit plan, means all rebates, discounts, formulary fees, administrative fees, and other allowances a drug manufacturer pays to the plan, or other government entity or person authorized to receive all or part of 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.~~ 437  
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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~~ 451

~~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:~~ 452  
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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 the Revised Code.~~ 471  
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~~(J) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.~~ 473  
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~~(T)(K) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.~~ 475  
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~~(U)(L) "Trade secret" has the same meaning as in section 1333.61 of the Revised Code.~~ 477  
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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~~ 479  
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Rx program pursuant to section 5110.19 of the Revised Code charges 482  
for when a drug included in the program to is purchased by an 483  
individual who does not receive a discounted price for the drug 484  
pursuant to any drug discount program, including the Ohio's best 485  
Rx program, a prescription drug discount card program established 486  
under section 173.061 of the Revised Code, or a pharmacy 487  
assistance program established by any person or government entity, 488  
and for whom no third-party payer or program funded in whole or 489  
part with state or federal funds is responsible for all or part of 490  
the cost of the drug the distributor dispenses to the individual. 491

**Sec. 5110.02.** There is hereby established the Ohio's best Rx 492  
program for the purpose of providing outpatient prescription drug 493  
discounts to individuals residing in this state who are enrolled 494  
in the program by meeting the eligibility requirements specified 495  
in section 5110.14 of the Revised Code, including eligible 496  
individuals who are sixty years of age or older, eligible 497  
individuals who have low incomes but are not eligible for 498  
medicaid, and other eligible individuals who do not have health 499  
benefits that cover outpatient drugs. The program shall include 500  
all drugs that are included in a manufacturer agreement entered 501  
into under section 5110.26 of the Revised Code and all other drugs 502  
that may be dispensed only pursuant to a prescription issued by a 503  
licensed health professional authorized to prescribe drugs, as 504  
defined in section 4729.01 of the Revised Code. Except as provided 505  
in section 5110.10 of the Revised Code, the department of job and 506  
family services shall administer the program. 507

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

(B)(1) The department may enter into a contract with any 511  
person under which the person serves as the administrator of the 512

Ohio's best Rx program. Before entering into a contract for a 513  
program administrator, the department shall issue a request for 514  
proposals from persons seeking to be considered. The department 515  
shall develop a process to be used in issuing the request for 516  
proposals, receiving responses to the request, and evaluating the 517  
responses on a competitive basis. In accordance with that process, 518  
the department shall select the person to be awarded the contract. 519

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

(3) In exercising powers or performing duties delegated under 527  
the contract, the program administrator is subject to the same 528  
provisions of this chapter or other provisions of the Revised Code 529  
that grant the powers or duties to the department, as well as any 530  
limitations or restrictions that are applicable to or associated 531  
with those powers or duties. 532

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

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

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

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

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

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

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

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

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

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

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

Sec. 5110.03. (A) Any entity that provides services as a

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

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

(1) The entity shall provide the drug pricing verification 588  
services and drug manufacturer payment verification services 589  
without charge, either to the Ohio's best Rx program or to the 590  
state agency or political subdivision for which it provides 591  
services as a pharmacy benefit manager. 592

(2) The entity shall provide the verification services for 593  
the entire year for which it is selected to serve as the program's 594  
consulting pharmacy benefit manager, regardless of the duration or 595  
termination of its responsibility to the state agency or political 596  
subdivision for which it provides services as a pharmacy benefit 597  
manager. 598

(C) If the entity selected to serve as the consulting 599  
pharmacy benefit manager fails to provide the program with drug 600  
pricing verification services or drug manufacturer payment 601  
verification services, or fails to provide for an audit when 602  
requested to do so under section 5110.05 of the Revised Code, the 603  
department may ask the attorney general to bring an action for 604

injunctive relief in any court of competent jurisdiction. On the 605  
filing of an appropriate petition in the court, the court shall 606  
conduct a hearing on the petition. If it is demonstrated in the 607  
proceedings that the pharmacy benefit manager has failed to 608  
provide the verification services or has failed to provide for the 609  
audit, the court shall grant a temporary or permanent injunction 610  
enjoining the pharmacy benefit manager from continuing to fail to 611  
provide the verification services or from continuing to fail to 612  
provide for the audit. 613

(D) This section does not impose any duty on the state agency 614  
or political subdivision for which an entity provides services as 615  
a pharmacy benefit manager. 616

**Sec. 5110.04.** Annually, the department of job and family 617  
services shall select a pharmacy benefit manager, from among the 618  
pharmacy benefit managers subject to section 5110.03 of the 619  
Revised Code, to serve as the Ohio's best Rx program's consulting 620  
pharmacy benefit manager for purposes of providing drug pricing 621  
verification services under section 5110.09 of the Revised Code 622  
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 shall specify the date on which the pharmacy benefit manager is to begin serving as the program's consulting pharmacy benefit manager for the ensuing year.

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

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

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

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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.

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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

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services. Notice of the request shall be made in writing and 666  
signed by the director of job and family services. The notice may 667  
specify the basis for the belief that the consulting pharmacy 668  
benefit manager is not acting in good faith. If the basis for the 669  
belief is not specified and the audit findings demonstrate that 670  
the consulting pharmacy benefit manager acted in good faith, the 671  
department shall pay the cost incurred by the consulting pharmacy 672  
benefit manager in providing for the audit. 673

(B) An audit provided for under this section shall be 674  
performed only by an auditor that is mutually satisfactory to the 675  
department and consulting pharmacy benefit manager and independent 676  
of both the department and consulting pharmacy benefit manager. 677

(C) If the findings of an audit provided for under this 678  
section demonstrate that the verification services provided by the 679  
consulting pharmacy benefit manager did not result in valid 680  
information, the department shall use the audit findings for 681  
purposes of confirming the validity of the one or more drug 682  
pricing formulas designated under section 5110.08 of the Revised 683  
Code and entering into agreements with drug manufacturers under 684  
section 5110.26 of the Revised Code. 685

**Sec. 5110.07.** Annually, the department of job and family 686  
services shall establish a base price for each drug included in 687  
the Ohio's best Rx program. In the case of drugs dispensed by a 688  
terminal distributor of dangerous drugs that has entered into an 689  
agreement under section 5110.20 of the Revised Code, the base 690  
price shall be established by using the one or more formulas 691  
designated under section 5110.08 of the Revised Code. In the case 692  
of the drug mail order system included in the program pursuant to 693  
section 5110.19 of the Revised Code, the base price shall be 694  
established in accordance with the rules adopted under section 695  
5110.35 of the Revised Code governing the drug mail order system. 696

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.

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 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.

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:

(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.

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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.

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

After conducting the review, the consulting pharmacy benefit 772  
manager shall provide information to the department verifying 773  
whether the discount percentage reflected in the department's 774  
weighted average base price for the drugs is more than two 775  
percentage points below the equivalent part of the consulting 776  
pharmacy benefit manager's weighted average payment rate for the 777  
same drugs. The information provided to the department shall be 778  
certified by signature of an officer of the consulting pharmacy 779  
benefit manager. 780

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

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

(2) If the drug is included in a manufacturer agreement entered into under section 5110.26 of the Revised Code, the participant shall be charged an amount that is computed by subtracting from the drug's base price established under section 5110.07 of the Revised Code the amount of the manufacturer payment that applies to the transaction, as established under section 5110.28 of the Revised Code. 790  
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(3) If an administrative fee is specified in rules adopted under section 5110.35 of the Revised Code, the participant shall be charged the amount of the administrative fee. 797  
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(4) If the drug is dispensed by a terminal distributor of dangerous drugs under an agreement entered into under section 5110.20 of the Revised Code, and the terminal distributor charges a professional fee pursuant to the agreement, the participant shall be charged the amount of the professional fee. 800  
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(5) If the drug is dispensed through the drug mail order system included in the program pursuant to section 5110.19 of the Revised Code, the participant shall not be charged a professional fee. 805  
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(B) When a quantity of a drug is purchased by an Ohio's best Rx program participant, the participating terminal distributor or drug mail order system dispensing the drug shall charge the lesser of the amount that applies to the transaction, as established in accordance with division (A) of this section, or the usual and customary charge that otherwise would apply to the transaction. 809  
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When a drug is purchased at the usual and customary charge pursuant to this division, the transaction is not subject to this chapter as the purchase or dispensing of a drug under the program. 815  
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**Sec. ~~5110.29~~ 5110.11.** The department of job and family services shall report ~~all~~ of the following to each participating 818  
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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  
which the data is available;

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

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

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

**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, 879  
the individual must not have coverage for outpatient prescription 880  
drug coverage drugs paid for in whole or in part by any of the 881  
following: 882

(a) A third-party payer, including an employer; 883

(b) The medicaid program; 884

(c) The children's health insurance program; 885

(d) The disability medical assistance program; 886

(e) Another health plan or pharmacy assistance program that 887  
uses state or federal funds to pay part or all of the cost of the 888  
individual's outpatient ~~prescription~~ drugs, ~~other than a~~ 889  
~~prescription drug discount card program established under section~~ 890  
~~173.061 of the Revised Code.~~ 891

(4) ~~Not~~ The individual must not have had coverage for 892  
outpatient prescription drug coverage drugs paid for by any of the 893  
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 discharged from employment due to a business reorganization. 909  
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~~(B) Application and annual reapplication for the Ohio's best Rx program shall be made in accordance with rules adopted under section 5110.35 of the Revised Code on a form prescribed in those rules. An individual may apply or reapply on behalf of the individual and the individual's spouse and children. The guardian or custodian of an individual may apply or reapply on behalf of the individual.~~ 911  
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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 of the following: 917  
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(1) A prescription drug discount card program established under section 173.061 of the Revised Code; 920  
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(2) The workers' compensation program; 922

(3) 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: 923  
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(a) The individual is responsible for the full cost of the drug. 929  
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(b) The drug is not subject to a rebate from the manufacturer under the individual's medicare prescription drug plan. 931  
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(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. 933  
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**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 936  
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the Revised Code. When applying for participation, an individual 939  
may include application for participation by the individual's 940  
spouse and children. An individual's guardian or custodian may 941  
apply on behalf of the individual. 942

When submitting an application, the applicant shall include 943  
the information and documentation specified in the department's 944  
rules as necessary to verify eligibility for the program. The 945  
application may be submitted on a paper form prescribed and 946  
supplied by the department or pursuant to any other application 947  
method the department makes available for the program, including 948  
methods that permit an individual to apply by telephone or through 949  
the internet. 950

An applicant shall attest that the information and 951  
documentation the applicant submits with an application is 952  
accurate to the best knowledge and belief of the applicant. In the 953  
case of a paper application form, the applicant's signature shall 954  
be used to certify that the applicant has attested to the accuracy 955  
of the information and documentation. In the case of other 956  
application methods, the application certification process 957  
specified in the department's rules shall be used to certify that 958  
the applicant has attested to the accuracy of the information and 959  
documentation. 960

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

**Sec. ~~5110.07~~ 5110.16.** The department of job and family 967  
services shall provide each applicant for the Ohio's best Rx 968  
program information about the medicaid program in accordance with 969



rules adopted under section 5110.35 of the Revised Code. The 970  
information shall include general eligibility requirements, 971  
application procedures, and benefits. The information shall also 972  
explain the ways in which the medicaid program's drug benefits are 973  
better than the Ohio's best Rx program. 974

~~Sec. 5110.08 5110.17.~~ On receipt of applications ~~and annual~~ 975  
~~reapplications~~, the department of job and family services shall 976  
make eligibility determinations for the Ohio's best Rx program in 977  
accordance with procedures established in rules adopted under 978  
section 5110.35 of the Revised Code. ~~Each determination that an~~ 979  
~~individual is eligible is valid for one year beginning on a date~~ 980  
~~determined in accordance with the eligibility determination~~ 981  
~~procedures. The beginning date may not precede the date on which~~ 982  
~~the individual's eligibility is determined. Annual reapplication~~ 983  
~~may be made under division (B) of section 5110.05 of the Revised~~ 984  
~~Code if the individual seeks to continue to participate in the~~ 985  
~~program after the date eligibility would otherwise end.~~ 986

An eligibility determination under this section may not be 987  
appealed under Chapter 119., section 5101.35, or any other 988  
provision of the Revised Code. 989

~~Sec. 5110.09 5110.18.~~ (A) The department of job and family 990  
services shall issue Ohio's best Rx program enrollment cards to or 991  
on behalf of individuals determined eligible to participate. One 992  
enrollment card may cover each member of a family determined 993  
eligible to participate. ~~The card is valid only during the period~~ 994  
~~each individual covered by the card is eligible to participate.~~ 995  
~~The card shall be presented to a participating terminal~~ 996  
~~distributor each~~ 997

The department shall determine the information to be included 998  
on the card, including an identification number, and shall 999

determine the card's size and format. If the department 1000  
establishes an application method that permits individuals to 1001  
apply through the internet, the department may issue the 1002  
enrollment card by sending the applicant an electronic version of 1003  
the card in a printable format. 1004

(B) Each time a drug included in the program is purchased 1005  
under the program, the entity dispensing the drug shall confirm 1006  
whether the individual for whom the drug is dispensed is enrolled 1007  
in the program. If the drug is being purchased from a 1008  
participating terminal distributor rather than the drug mail order 1009  
system included in the program pursuant to section 5110.19 of the 1010  
Revised Code, and the individual's enrollment card is available 1011  
for presentation at the time of the purchase, the purchaser shall 1012  
present the card to the participating terminal distributor as 1013  
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 Revised Code, the professional fee under division (E) of this section, if any, and the administrative fee under division (F) of this section, if any, or (2) the terminal distributor's usual and customary charge comply with section 5110.10 of the Revised Code when charging for a drug purchased under the program;~~

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

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

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

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

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

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

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

~~Sec. 5110.16~~ 5110.22. ~~A participating terminal distributor or the Ohio's best Rx program administrator shall submit~~ For each drug dispensed under the Ohio's best Rx program, a claim shall be submitted to the department of job and family services ~~for each drug dispensed to an Ohio's best Rx program participant. The participating terminal distributor or the drug mail order system included in the program pursuant to section 5110.19 of the Revised Code that dispensed the drug shall submit the claim~~ not later than thirty days after the drug is dispensed. The claim shall be submitted in accordance with the electronic method provided for in rules adopted under section 5110.35 of the Revised Code.

The claim shall specify all of the following:

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

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

(C) The number of units of the drug dispensed to the

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 number of units of the drug dispensed to the Ohio's best Rx program participant, in accordance with the provisions of division (B) of section 5110.28 of the Revised Code;~~ 1182  
1183  
1184  
1185

(2) If rules adopted under section 5110.35 of the Revised Code require that program participants be charged an administrative fee was charged, for each transaction in which a quantity of the drug was dispensed, subtract from the amount computed under division (B)(1) of this section the administrative fee amount specified in those rules adopted under section 5110.35 of the Revised Code. 1186  
1187  
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(C) The department may combine the claims from submitted by a participating terminal distributor or the administrator program's drug mail order system to make aggregate payments under this section to the distributor or administrator system. 1193  
1194  
1195  
1196

(D) If the total of the amounts computed under division (B) of this section for any period for which payments are due is a negative number, the participating terminal distributor or administrator the program's drug mail order system that submitted the claims has been overpaid for the claims submitted under section 5110.16 of the Revised Code. When there is an overpayment, the department shall reduce future payments to the terminal distributor or administrator made under this section to the distributor or system or collect an amount from the terminal distributor or administrator system sufficient to reimburse the department for the overpayment. 1197  
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**Sec. 5110.18 5110.24.** Neither ~~the department of job and family services nor the Ohio's best Rx program administrator may charge~~ a participating terminal distributor nor the drug mail order system included in the Ohio's best Rx program pursuant to section 5110.19 of the Revised Code may be charged by the 1208  
1209  
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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~~ 1256

(2) Specify which of the manufacturer's drugs are included in 1257  
the agreement; 1258

~~(2)(3)~~ Permit the department to remove a drug from the 1259  
agreement in the event of a dispute over the drug's utilization; 1260

~~(3)(4)~~ Require that the manufacturer ~~make~~ specify a rebate 1261  
payment per unit amount that will be paid to the department for 1262  
each drug specified under division (B)(1) of this section included 1263  
in the agreement that is dispensed to an Ohio's best Rx program 1264  
participant; 1265

~~(4)(a)(5)~~ Require that the per unit ~~rebate be in an amount~~ 1266  
equal to the greater of the following: 1267

~~(i) The weighted average of the per unit rebates for the drug~~ 1268  
~~as computed under division (C)(1) of this section;~~ 1269

<del>(ii) A per unit amount specified by the manufacturer.</del>	1270
<del>(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.</del>	1271 1272 1273 1274
<del>(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;</del>	1275 1276 1277
<del>(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></del>	1278 1279 1280 1281 1282 1283 1284
<del>(6) <u>Require the manufacturer to make payments in accordance with the amounts computed under division (A) of section 5110.28 of the Revised Code;</u></del>	1285 1286 1287
<del>(7) Require that the manufacturer make the rebate payments to the department on a quarterly basis or in accordance with a schedule established by rules adopted under section 5110.35 of the Revised Code.</del>	1288 1289 1290 1291
<del>(C)(1) For the purposes of division (B)(4)(a)(i) of this section, once each year the department shall compute the weighted average of the per unit rebates for each drug using the information available to the department from submissions under division (A)(4) of section 5110.25 of the Revised Code. The computation shall be made in accordance with section 5110.28 of the Revised Code and rules adopted under section 5110.35 of the Revised Code.</del>	1292 1293 1294 1295 1296 1297 1298 1299

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

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

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

**Sec. 5110.28.** 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:

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

(B) For purposes of the amount that a participant is to be charged under section 5110.10 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:

(1) If a program administration percentage is not determined

by the department of job and family services in rules adopted 1330  
under section 5110.35 of the Revised Code, the manufacturer 1331  
payment amount shall be the same as the manufacturer payment 1332  
amount computed under division (A) of this section. 1333

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

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

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

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

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

**Sec. 5110.30.** Annually, the department of job and family 1356  
services shall select a sample of not more than ten of the drugs 1357  
that were included in the manufacturer agreements entered into 1358  
under section 5110.26 of the Revised Code in the immediately 1359

preceding year. The department shall submit to the program's 1360  
consulting pharmacy benefit manager selected under section 5110.04 1361  
of the Revised Code information that identifies the per unit 1362  
amount of the manufacturer payments that applied to each of the 1363  
drugs in the sample. 1364

The consulting pharmacy benefit manager shall review the 1365  
submitted information. After the review, the consulting pharmacy 1366  
benefit manager shall provide information to the department 1367  
verifying whether any of the per unit payment amounts that applied 1368  
to the selected drugs were more than two per cent lower than the 1369  
per unit payment amounts negotiated by the consulting pharmacy 1370  
benefit manager for the same drugs in connection with health 1371  
benefit plans that generally do not use formularies to restrict 1372  
the outpatient drug coverage included in the plans. The consulting 1373  
pharmacy benefit manager shall specify which, if any, of the drugs 1374  
in the sample were subject to the lower per unit payment amounts. 1375  
The information provided to the department shall be certified by 1376  
signature of an officer of the consulting pharmacy benefit 1377  
manager. 1378

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

(B) Entering into a manufacturer agreement under section 1387  
5110.26 of the Revised Code does not require a drug manufacturer 1388  
to make a manufacturer payment that would establish the 1389

manufacturer's medicaid best price for a drug. 1390

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

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

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

(B) Determination of family income for the purpose of 1404  
division (A)(2)(a) of section ~~5110.05~~ 5110.14 of the Revised Code; 1405

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

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

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

Code;	1419
(E) For the purpose of section <del>5110.08</del> <u>5110.17</u> of the Revised Code, eligibility determination procedures;	1420 1421
(F) <u>Standards and procedures governing the drug mail order system included in the program pursuant to section 5110.19 of the Revised Code;</u>	1422 1423 1424
(G) Subject to section 5110.352 of the Revised Code, periodically increasing the maximum professional fee that participating terminal distributors may charge Ohio's best Rx program participants <u>pursuant to an agreement entered into</u> under section <del>5110.12</del> <u>5110.20</u> of the Revised Code <del>or the Ohio's best Rx program administrator may charge under a contract entered into under section 5110.10 of the Revised Code;</del>	1425 1426 1427 1428 1429 1430 1431
<del>(G)</del> (H) Subject to section 5110.353 of the Revised Code, the amount of the administrative fee, if any, <del>participating terminal distributors are to charge that</del> Ohio's best Rx program participants <del>under section 5110.12 of the Revised Code or the Ohio's best Rx program administrator may charge under a contract entered into under section 5110.10 of the Revised Code</del> <u>are to be charged under the program;</u>	1432 1433 1434 1435 1436 1437 1438
<del>(H)</del> (I) The electronic method for <del>participating terminal distributors and the Ohio's best Rx program administrator to submit</del> <u>submission of</u> claims to the department under section <del>5110.16</del> <u>5110.22</u> of the Revised Code;	1439 1440 1441 1442
<del>(I)</del> (J) Additional information <del>participating terminal distributors and the Ohio's best Rx program administrator shall include to be included</del> on claims submitted under section <del>5110.16</del> <u>5110.22</u> of the Revised Code that the department determines is necessary for the department to be able to make payments under section <del>5110.17</del> <u>5110.23</u> of the Revised Code;	1443 1444 1445 1446 1447 1448
<del>(J)</del> (K) The method for making payments <del>to participating</del>	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) of section 5110.35 of 1477  
the Revised Code increasing the maximum amount of the professional 1478  
fee participating terminal distributors may charge Ohio's best Rx 1479

program participants pursuant to an agreement entered into under 1480  
section 5110.12 ~~5110.20~~ of the Revised Code and the Ohio's best Rx 1481  
~~program administrator may charge under a contract entered into~~ 1482  
~~under section 5110.10 of the Revised Code,~~ the department of job 1483  
and family services shall review the amount of the professional 1484  
fee once a year or, at the department's discretion, at more 1485  
frequent intervals ~~and~~. The department shall not increase the 1486  
professional fee to an amount exceeding the medicaid dispensing 1487  
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 (G) 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 fund created by section ~~5110.32~~ 5110.42 of the Revised Code; 1541  
1542

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

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

**Sec. 5110.38.** The department of job and family services may coordinate the Ohio's best Rx program with ~~a state~~ any health benefit plan ~~to enhance~~ offered to the employees of state agencies and the eligible dependents of those employees, for purposes of enhancing efficiency, ~~reduce~~ reducing the cost of drugs, and ~~maximize~~ maximizing the benefits of the Ohio's best Rx program and ~~state the health benefit plans~~ plan. 1549  
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**Sec. 5110.39.** The department of job and family services may establish a component of the Ohio's best Rx program under which subsidies are provided to participants to assist them with the cost of purchasing drugs under the program, including the cost of any professional fees charged for dispensing the drugs. The subsidies shall be provided only when the Ohio's best Rx program administration fund created under section 5110.43 of the Revised Code includes an amount that exceeds the amount necessary to pay the administrative costs of the program. 1556  
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**Sec. ~~5110.32~~ 5110.42.** (A) The Ohio's best Rx program fund is hereby created. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. The fund shall consist of the following: 1565  
1566  
1567  
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 1615  
services shall compile both of the following lists regarding the 1616  
Ohio's best Rx program: 1617

(1) A list consisting of the name of each drug manufacturer 1618  
that enters into a ~~rebate~~ manufacturer agreement under section 1619  
5110.21 of the Revised Code and the names of the drugs included in 1620  
each ~~rebate~~ manufacturer agreement; 1621

(2) A list consisting of the name of each participating 1622  
terminal distributor and the name of the drug mail order system 1623  
included in the program pursuant to section 5110.19 of the Revised 1624  
Code. 1625

(B) As part of the list compiled under division (A)(1) of 1626  
this section, the department may include aggregate information 1627  
regarding the drugs selected under section 5110.30 of the Revised 1628  
Code that were verified under that section as having per unit 1629

manufacturer payment amounts that were not more than two per cent 1630  
lower than the per unit payment amounts negotiated for the same 1631  
drugs by the program's consulting pharmacy benefit manager 1632  
selected under section 5110.04 of the Revised Code. The 1633  
information shall not identify a specific drug and shall be 1634  
expressed only as a percentage of the sample of drugs selected 1635  
under section 5110.30 of the Revised Code. 1636

(C) The lists compiled under this section are public records 1637  
for the purpose of section 149.43 of the Revised Code. The 1638  
department shall specifically make the lists available to 1639  
physicians, participating terminal distributors, and other health 1640  
professionals. 1641

**Sec. 5110.55.** Information transmitted by or to any of the 1642  
following for any purpose related to the Ohio's best Rx program is 1643  
confidential to the extent required by federal and state law: 1644

(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~~ 1651  
health benefit plan; 1652

~~(H)~~(D) The program's consulting pharmacy benefit manager 1653  
selected under section 5110.04 of the Revised Code; 1654

(E) Ohio's best Rx program participants; 1655

~~(I)~~(F) Any other government entity or person. 1656

**Sec. 5110.56.** (A) Except as provided by section 5110.57 of 1657

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:

(1) The amounts determined under section ~~5110.17~~ 5110.23 of the Revised Code 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;

(2) Information disclosed in a ~~rebate~~ manufacturer agreement entered into under section 5110.26 of the Revised Code or in communications related to a ~~rebate~~ an agreement;

(3) ~~Information that the department of administrative services and state retirement systems submit to the department of 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 1688  
required for the implementation of this chapter. 1689

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

**Sec. 5110.58.** (A) As used in this section, "identifying 1700  
information" means information that identifies or could be used to 1701  
identify an Ohio's best Rx program applicant or participant. 1702  
"Identifying information" does not include aggregate information 1703  
about applicants and participants that does not identify and could 1704  
not be used to identify an individual applicant or participant. 1705

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

(C)(1) The department of job and family services ~~and the~~ 1710  
~~Ohio's best Rx program administrator~~ may solicit, disclose, 1711  
receive, or use identifying information or knowingly permit the 1712  
use of identifying information for a purpose directly connected to 1713  
the administration of the Ohio's best Rx program, including 1714  
disclosing and knowingly permitting the use of identifying 1715  
information included in a claim that a participating manufacturer 1716  
audits pursuant to ~~division (D) of section 5110.21~~ 5110.32 of the 1717

Revised Code, contacting Ohio's best Rx program applicants or 1718  
participants regarding participation in the program, and notifying 1719  
applicants and participants regarding participating terminal 1720  
distributors and the drug mail order system included in the 1721  
program pursuant to section 5110.19 of the Revised Code. 1722

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

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

(D)(1) A participating terminal distributor ~~or the Ohio's~~ 1731  
~~best Rx program administrator~~ may solicit, disclose, receive, or 1732  
use identifying information or knowingly permit the use of 1733  
identifying information to the extent required or permitted by an 1734  
agreement the distributor enters into under section ~~5110.12~~ 1735  
5110.20 of the Revised Code ~~or a contract the administrator enters~~ 1736  
~~into under section 5110.10 of the Revised Code.~~ 1737

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

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

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

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

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

**Section 3.** All duties and any other obligations of the Department of Administrative Services, Public Employees Retirement System, State Teachers Retirement System, School Employees Retirement System, Ohio Police and Fire Pension Fund, and State Highway Patrol Retirement System pertaining to the Ohio's Best Rx

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 transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;	1839 1840 1841
(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;	1842 1843 1844 1845
(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;	1846 1847 1848
(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;	1849 1850 1851 1852 1853 1854 1855 1856 1857
(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;	1858 1859 1860 1861
(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate.	1862 1863 1864 1865 1866 1867 1868 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	1888
authority under section 2967.14 of the Revised Code or by the	1889
department of youth services under section 5139.08 of the Revised	1890
Code;	1891
(13) Applying to dues or fees paid for membership in an	1892
organization or association;	1893
(14) Applying to purchases of utility services pursuant to	1894
section 9.30 of the Revised Code;	1895
(15) Applying to purchases made in accordance with rules	1896
adopted by the department of administrative services of motor	1897
vehicle, aviation, or watercraft fuel, or emergency repairs of	1898
such vehicles;	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, newspapers, maintenance subscriptions, and other published materials;	1915 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	1927 1928 1929



refund offset program of the internal revenue service of the	1930
United States department of the treasury;	1931
(27) Applying to contracts entered into by the department of	1932
mental retardation and developmental disabilities under sections	1933
5123.18, 5123.182, and 5123.199 of the Revised Code;	1934
(28) Applying to payments made by the department of mental	1935
health under a physician recruitment program authorized by section	1936
5119.101 of the Revised Code;	1937
(29) Applying to contracts entered into with persons by the	1938
director of commerce for unclaimed funds collection and remittance	1939
efforts as provided in division (F) of section 169.03 of the	1940
Revised Code. The director shall keep an itemized accounting of	1941
unclaimed funds collected by those persons and amounts paid to	1942
them for their services.	1943
(30) Applying to purchases made by a state institution of	1944
higher education in accordance with the terms of a contract	1945
between the vendor and an inter-university purchasing group	1946
comprised of purchasing officers of state institutions of higher	1947
education;	1948
(31) Applying to the department of job and family services'	1949
purchases of health assistance services under the children's	1950
health insurance program part I provided for under section 5101.50	1951
of the Revised Code or the children's health insurance program	1952
part II provided for under section 5101.51 of the Revised Code;	1953
(32) Applying to payments by the attorney general from the	1954
reparations fund to hospitals and other emergency medical	1955
facilities for performing medical examinations to collect physical	1956
evidence pursuant to section 2907.28 of the Revised Code;	1957
(33) Applying to contracts with a contracting authority or	1958
administrative receiver under division (B) of section 5126.056 of	1959

the Revised Code;	1960
(34) Applying to reimbursements paid to the United States department of veterans affairs for pharmaceutical and patient supply purchases made on behalf of the Ohio veterans' home agency;	1961 1962 1963
(35) Applying to agreements entered into with terminal distributors of dangerous drugs under section <del>5110.20</del> <u>173.79</u> of the Revised Code.	1964 1965 1966
(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.	1967 1968 1969 1970 1971
(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:	1972 1973 1974 1975
(1) Purchases made through competitive selection or with controlling board approval;	1976 1977
(2) Purchases listed in division (D) of this section;	1978
(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.	1979 1980
(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.	1981 1982 1983
<b>Sec. 173.06.</b> (A) The director of aging shall establish a golden buckeye card program and provide a golden buckeye card to any resident of this state who applies to the director for a card and is sixty years of age or older or is a person with a disability and is eighteen years of age or older. The director	1984 1985 1986 1987 1988

shall devise programs to provide benefits of any kind to card 1989  
holders, and encourage support and participation in them by all 1990  
persons, including governmental organizations. Card holders shall 1991  
be entitled to any benefits granted to them by private persons or 1992  
organizations, the laws of this state, or ordinances or 1993  
resolutions of political subdivisions. This section does not 1994  
require any person or organization to provide benefits to any card 1995  
holder. The department of aging shall bear all costs of the 1996  
program, ~~except that the department is not required to bear any~~ 1997  
~~costs related to the prescription drug programs established~~ 1998  
~~pursuant to section 173.061 of the Revised Code.~~ 1999

(B) Before issuing a golden buckeye card to any person, the 2000  
director shall establish the identity of any person who applies 2001  
for a card and shall ascertain that such person is sixty years of 2002  
age or older or is a person with a disability and is eighteen 2003  
years of age or older. The director shall adopt rules under 2004  
Chapter 119. of the Revised Code to prevent the issuance of cards 2005  
to persons not qualified to have them. Cards shall contain the 2006  
signature of the card holder and any other information the 2007  
director considers necessary to carry out the purposes of the 2008  
golden buckeye card program under this section. Any card that the 2009  
director issues shall be held in perpetuity by the original card 2010  
holder and shall not be transferable to any other person. A person 2011  
who loses the person's card may obtain another card from the 2012  
director upon providing the same information to the director as 2013  
was required for the issuance of the original card. 2014

(C) No person shall use a golden buckeye card except to 2015  
obtain a benefit for the holder of the card to which the holder is 2016  
entitled under the conditions of the offer. 2017

(D) As used in this section, "person with a disability" means 2018  
a person who has some impairment of body or mind and has been 2019  
certified as permanently and totally disabled by an agency of this 2020

state or the United States having the function of so classifying persons. 2021  
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**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~~. 2023  
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**Sec. ~~5110.01~~ 173.71.** As used in ~~this chapter~~ sections 173.71 to 173.91 of the Revised Code: 2033  
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(A) "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. 2035  
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(B) "Disability medical assistance program" means the program established under section 5115.10 of the Revised Code. 2038  
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(C) "Medicaid program" or "medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code. 2040  
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(D) "National drug code number" means the number registered for a drug pursuant to the listing system established by the United States food and drug administration under the "Drug Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended. 2043  
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(E) "Ohio's best Rx program participant" or "participant" means an individual determined eligible for the Ohio's best Rx program and included under an Ohio's best Rx program enrollment 2047  
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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~~ 173.81 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~~ 173.79 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 2127  
whole to the program administrator, the reference to the 2128  
department is, instead, a reference to the administrator. 2129

(b) If the department retains any part of the power or duty 2130  
that is delegated to the program administrator, the reference to 2131  
the department is a reference to both the department and the 2132  
administrator. 2133

(5) The terms of a contract for a program administrator shall 2134  
include provisions for offering the drug mail order system 2135  
included in the Ohio's best Rx program pursuant to section ~~5110.19~~ 2136  
173.78 of the Revised Code. The terms of the contract may permit 2137  
the administrator to offer the drug mail order system by 2138  
contracting with another person. 2139

(6) The department shall not delegate to a program 2140

administrator the department's powers or duties to do any of the 2141  
following: 2142

(a) Enter into contracts under this section other than a 2143  
contract to offer a drug mail order system; 2144

(b) Receive verification of drug pricing information under 2145  
section ~~5110.09~~ 173.742 of the Revised Code or verification of 2146  
drug manufacturer payment information under section ~~5110.30~~ 2147  
173.814 of the Revised Code from the pharmacy benefit manager 2148  
selected under section ~~5110.04~~ 173.731 of the Revised Code to 2149  
serve as the Ohio's best Rx program's consulting pharmacy benefit 2150  
manager; 2151

(c) Request the program's consulting pharmacy benefit manager 2152  
to provide for an audit under section ~~5110.05~~ 173.732 of the 2153  
Revised Code; 2154

(d) Review or use any information contained in or pertaining 2155  
to an audit provided for by the program's consulting pharmacy 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.

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**Sec. ~~5110.05~~ 173.732.** (A) To determine whether the pharmacy benefit manager selected under section ~~5110.04~~ 173.731 of the Revised Code to serve as the Ohio's best Rx program's consulting pharmacy benefit manager has provided valid information when providing drug pricing verification services under section ~~5110.09~~ 173.742 of the Revised Code or drug manufacturer payment verification services under section ~~5110.30~~ 173.814 of the Revised Code, the department of ~~job and family services~~ aging 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.

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

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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.

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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~~ aging. 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.

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(B) An audit provided for under this section shall be

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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  
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.

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

**Sec. ~~5110.10~~ 173.75.** (A) Subject to division (B) of this  
section, the amount that an Ohio's best Rx program participant is  
to be charged for a quantity of a drug purchased under the program  
shall be established in accordance with all of the following:

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

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



section <del>5110.28</del> <u>173.812</u> of the Revised Code.	2415
(3) If an administrative fee is specified in rules adopted under section <del>5110.35</del> <u>173.83</u> of the Revised Code, the participant shall be charged the amount of the administrative fee.	2416 2417 2418
(4) If the drug is dispensed by a terminal distributor of dangerous drugs under an agreement entered into under section <del>5110.20</del> <u>173.79</u> of the Revised Code, and the terminal distributor charges a professional fee pursuant to the agreement, the participant shall be charged the amount of the professional fee.	2419 2420 2421 2422 2423
(5) If the drug is dispensed through the drug mail order system included in the program pursuant to section <del>5110.19</del> <u>173.78</u> of the Revised Code, the participant shall not be charged a professional fee.	2424 2425 2426 2427
(B) When a quantity of a drug is purchased by an Ohio's best Rx program participant, the participating terminal distributor or drug mail order system dispensing the drug shall charge the lesser of the amount that applies to the transaction, as established in accordance with division (A) of this section, or the usual and customary charge that otherwise would apply to the transaction. When a drug is purchased at the usual and customary charge pursuant to this division, the transaction is not subject to <del>this chapter</del> <u>sections 173.71 to 173.91 of the Revised Code</u> as the purchase or dispensing of a drug under the program.	2428 2429 2430 2431 2432 2433 2434 2435 2436 2437
<b>Sec. <del>5110.11</del> <u>173.751</u>.</b> The department of <del>job and family services</del> <u>aging</u> shall report the following to each participating terminal distributor and the drug mail order system included in the Ohio's best Rx program pursuant to section <del>5110.19</del> <u>173.78</u> of the Revised Code in a manner enabling the distributor and system to comply with section <del>5110.10</del> <u>173.75</u> of the Revised Code:	2438 2439 2440 2441 2442 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  
the Revised Code; 2445  
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(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
<b>Sec. <del>5110.14</del> <u>173.76</u>.</b> (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) <del>Either</del> <u>One</u> of the following must be the case:	2479
(a) The individual has family income, as determined under	2480
rules adopted pursuant to section <del>5110.35</del> <u>173.83</u> 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
<u>(c) The individual is a disabled person, as defined in</u>	2488
<u>section 173.06 of the Revised Code.</u>	2489
(3) Except as provided in division (B) of this section, the	2490
individual must not have coverage for outpatient drugs paid for in	2491
whole or in part by any of the following:	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	2497
uses state or federal funds to pay part or all of the cost of the	2498
individual's outpatient drugs.	2499
(4) The individual must not have had coverage for outpatient	2500
drugs paid for by any of the entities or programs specified in	2501

division (A)(3) of this section during any of the four months	2502
preceding the month in which the application for the Ohio's best	2503
Rx program is made, unless any of the following applies:	2504
(a) The individual is sixty years of age or older.	2505
(b) The third-party payer, including an employer, that paid	2506
for the coverage filed for bankruptcy under federal bankruptcy	2507
laws.	2508
(c) The individual is no longer eligible for coverage	2509
provided through a retirement plan subject to protection under the	2510
"Employee Retirement Income Security Act of 1974," 88 Stat. 832,	2511
29 U.S.C. 1001, as amended.	2512
(d) The individual is no longer eligible for the medicaid	2513
program, children's health insurance program, or disability	2514
medical assistance program.	2515
(e) The individual is either temporarily or permanently	2516
discharged from employment due to a business reorganization.	2517
(B) An individual is not subject to division (A)(3) of this	2518
section if the individual has coverage for outpatient drugs paid	2519
for in whole or in part by <del>any</del> <u>either</u> of the following:	2520
(1) <del>A prescription drug discount card program established</del>	2521
<del>under section 173.061 of the Revised Code;</del>	2522
<del>(2)</del> The workers' compensation program;	2523
<del>(3)</del> <u>(2)</u> A medicare prescription drug plan offered pursuant to	2524
the "Medicare Prescription Drug, Improvement, and Modernization	2525
Act of 2003," 117 Stat. 2071, 42 U.S.C. 1395w-101, as amended, but	2526
only if all of the following are the case with respect to the	2527
particular drug being purchased through the Ohio's best Rx	2528
program:	2529
(a) The individual is responsible for the full cost of the	2530
drug.	2531

(b) The drug is not subject to a rebate from the manufacturer 2532  
under the individual's medicare prescription drug plan. 2533

(c) The manufacturer of the drug has agreed to the Ohio's 2534  
best Rx program's inclusion of individuals who have coverage 2535  
through a medicare prescription drug plan. 2536

**Sec. ~~5110.15~~ 173.77.** Application for participation in the 2537  
Ohio's best Rx program shall be made in accordance with rules 2538  
adopted by the department of ~~job and family services~~ aging under 2539  
section ~~5110.35~~ 173.83 of the Revised Code. When applying for 2540  
participation, an individual may include application for 2541  
participation by the individual's spouse and children. An 2542  
individual's guardian or custodian may apply on behalf of the 2543  
individual. 2544

When submitting an application, the applicant shall include 2545  
the information and documentation specified in the department's 2546  
rules as necessary to verify eligibility for the program. The 2547  
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 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.

**Sec. ~~5110.16~~ 173.771.** The department of ~~job and family services~~ aging 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~~ 173.83 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.

**Sec. ~~5110.17~~ 173.772.** On receipt of applications, the department of ~~job and family services~~ aging shall make eligibility determinations for the Ohio's best Rx program in accordance with procedures established in rules adopted under section ~~5110.35~~ 173.83 of the Revised Code.

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. ~~5110.18~~ 173.773.** (A) The department of ~~job and family services~~ aging 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 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 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 charged under division (A)(1) or (2) of section ~~5110.10~~ 173.75 of the Revised Code by participating terminal distributors.

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

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

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

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

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

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

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

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

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

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

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

**Sec. ~~5110.21~~ 173.791.** A terminal distributor of dangerous drugs shall not be prohibited from participating in any program or any network of health care providers on the basis that the terminal distributor has not entered into an agreement under section ~~5110.20~~ 173.79 of the Revised Code to participate in the Ohio's best Rx program.

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

The claim shall specify all of the following:

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

(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 shall be not less than one year from the date the agreement is entered into; 2803  
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- (2) Specify which of the manufacturer's drugs are included in the agreement; 2806  
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- (3) Permit the department to remove a drug from the agreement in the event of a dispute over the drug's utilization; 2808  
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- (4) Require that the manufacturer specify a per unit amount that will be paid to the department for each drug included in the agreement that is dispensed to an Ohio's best Rx program participant; 2810  
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- (5) Require that the per unit 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; 2814  
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- (6) Require the manufacturer to make payments in accordance with the amounts computed under division (A) of section ~~5110.28~~ 173.812 of the Revised Code; 2822  
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2824
- (7) Require that the manufacturer make the payments on a quarterly basis or in accordance with a schedule established by rules adopted under section ~~5110.35~~ 173.83 of the Revised Code. 2825  
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- (B) For any drug included in a manufacturer agreement, the terms of the agreement may provide for the establishment of a process for referring Ohio's best Rx program applicants and participants to a patient assistance program operated or sponsored by the manufacturer. The referral process may be included only if 2828  
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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 2847  
Revised Code, both of the following apply: 2848

(1) If a program administration percentage is not determined 2849  
by the department of ~~job and family services~~ aging in rules 2850  
adopted under section ~~5110.35~~ 173.83 of the Revised Code, the 2851  
manufacturer payment amount shall be the same as the manufacturer 2852  
payment amount computed under division (A) of this section. 2853

(2) If a program administration percentage is determined by 2854  
the department, the manufacturer payment amount shall be computed 2855  
as follows: 2856

(a) Multiply the per unit amount specified for the drug in 2857  
the agreement by the program administration percentage; 2858

(b) Subtract the product determined under division (B)(2)(a) 2859  
of this section from the per unit amount specified for the drug in 2860  
the agreement; 2861

(c) Multiply the per unit amount resulting from the 2862

computation under division (B)(2)(b) of this section by the number of units dispensed. 2863  
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**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. 2865  
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**Sec. ~~5110.30~~ 173.814.** Annually, the department of ~~job and family services~~ aging shall select a sample of not more than ten of the drugs that were included in the manufacturer agreements entered into under section ~~5110.26~~ 173.81 of the Revised Code in the immediately preceding year. The department shall submit to the program's consulting pharmacy benefit manager selected under section ~~5110.04~~ 173.731 of the Revised Code information that identifies the per unit amount of the manufacturer payments that applied to each of the drugs in the sample. 2877  
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The consulting pharmacy benefit manager shall review the submitted information. After the review, the consulting pharmacy benefit manager shall provide information to the department verifying whether any of the per unit payment amounts that applied to the selected drugs were more than two per cent lower than the per unit payment amounts negotiated by the consulting pharmacy benefit manager for the same drugs in connection with health 2886  
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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 <del>5110.07</del> <u>173.74</u> 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 <del>5110.14</del> <u>173.76</u> of the Revised Code;	2927
(C) For the purpose of section <del>5110.15</del> <u>173.77</u> 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 <del>5110.16</del> <u>173.771</u> of the Revised	2935
Code;	2936
(E) For the purpose of section <del>5110.17</del> <u>173.772</u> of the Revised	2937
Code, eligibility determination procedures;	2938
(F) Standards and procedures governing the drug mail order	2939
system included in the program pursuant to section <del>5110.19</del> <u>173.78</u>	2940
of the Revised Code;	2941
(G) Subject to section <del>5110.352</del> <u>173.831</u> of the Revised Code,	2942
periodically increasing the maximum professional fee that	2943
participating terminal distributors may charge Ohio's best Rx	2944
program participants pursuant to an agreement entered into under	2945
section <del>5110.20</del> <u>173.79</u> of the Revised Code;	2946
(H) Subject to section <del>5110.353</del> <u>173.832</u> of the Revised Code,	2947
the amount of the administrative fee, if any, that Ohio's best Rx	2948
program participants are to be charged under the program;	2949
(I) The electronic method for submission of claims to the	2950
department under section <del>5110.22</del> <u>173.80</u> of the Revised Code;	2951
(J) Additional information to be included on claims submitted	2952

under section ~~5110.22~~ 173.80 of the Revised Code that the  
department determines is necessary for the department to be able  
to make payments under section ~~5110.23~~ 173.801 of the Revised  
Code;

(K) The method for making payments under section ~~5110.23~~  
173.801 of the Revised Code;

(L) Subject to section ~~5110.354~~ 173.833 of the Revised Code,  
the percentage, if any, that is the program administration  
percentage;

(M) If the department determines it is best that  
participating manufacturers make payments pursuant to manufacturer  
agreements entered into under section ~~5110.26~~ 173.81 of the  
Revised Code on a basis other than quarterly, a schedule for  
making the payments;

(N) Procedures for making computations under sections ~~5110.10~~  
173.75 and ~~5110.28~~ 173.812 of the Revised Code;

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

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

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

In adopting a rule under division (F) of section ~~5110.35~~  
173.83 of the Revised Code increasing the maximum amount of the  
professional fee participating terminal distributors may charge  
Ohio's best Rx program participants pursuant to an agreement  
entered into under section ~~5110.20~~ 173.79 of the Revised Code, the

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~~ aging in 3058  
rules adopted under section ~~5110.35~~ 173.83 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~~ 173.801 of the Revised Code 3064  
and to make transfers to the Ohio's best Rx administration fund in 3065  
accordance with section ~~5110.43~~ 173.86 of the Revised Code. 3066

**Sec. ~~5110.43~~ 173.86.** (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~~ aging 3073  
in rules adopted under section ~~5110.35~~ 173.83 of the Revised Code; 3074  
3075

(2) The amount of the administrative fees charged Ohio's best 3076  
Rx participants, if an administrative fee is determined by the 3077  
department of ~~job and family services~~ aging in rules adopted under 3078  
section ~~5110.35~~ 173.83 of the Revised Code; 3079

(3) The amount of any donations credited to the Ohio's best 3080  
Rx program fund; 3081

(4) The amount of investment earnings credited to the Ohio's 3082  
best Rx program fund. 3083

The treasurer of state shall make the transfers in accordance 3084  
with a schedule developed by the treasurer of state and the 3085  
department of ~~job and family services~~ aging. 3086

(B) The department of ~~job and family services~~ aging shall use 3087  
money in the Ohio's best Rx administration fund to pay the 3088  
administrative costs of the Ohio's best Rx program, including, but 3089  
not limited to, costs associated with contracted services, staff, 3090  
outreach activities, computers and network services, and the 3091  
Ohio's best Rx program council. If the fund includes an amount 3092  
that exceeds the amount necessary to pay the administrative costs 3093  
of the program, the department may use the excess amount to pay 3094  
the cost of subsidies provided to Ohio's best Rx program 3095  
participants under any subsidy program established pursuant to 3096  
section ~~5110.39~~ 173.861 of the Revised Code. 3097

**Sec. ~~5110.39~~ 173.861.** The department of ~~job and family~~ 3098  
~~services~~ aging may establish a component of the Ohio's best Rx 3099  
program under which subsidies are provided to participants to 3100  
assist them with the cost of purchasing drugs under the program, 3101  
including the cost of any professional fees charged for dispensing 3102

the drugs. The subsidies shall be provided only when the Ohio's 3103  
best Rx program administration fund created under section ~~5110.43~~ 3104  
173.86 of the Revised Code includes an amount that exceeds the 3105  
amount necessary to pay the administrative costs of the program. 3106

**Sec. ~~5110.45~~ 173.87.** There is hereby created the Ohio's best 3107  
Rx program council. The council shall advise the department of ~~job~~ 3108  
~~and family services~~ aging on the Ohio's best Rx program. With the 3109  
approval of a majority of the council's appointed members, the 3110  
council may initiate studies to determine whether there are more 3111  
effective ways to administer the program and provide the 3112  
department with suggestions for improvements. 3113

**Sec. ~~5110.46~~ 173.871.** The Ohio's best Rx program council 3114  
shall consist of the following members: 3115

(A) The president of the senate; 3116

(B) The speaker of the house of representatives; 3117

(C) The minority leader of the senate; 3118

(D) The minority leader of the house of representatives; 3119

(E) A representative of the Ohio chapter of the American 3120  
federation of labor-congress of industrial organizations, 3121  
appointed by the governor from a list of names submitted to the 3122  
governor by that organization; 3123

(F) A representative of the Ohio chapter of the American 3124  
association of retired persons, appointed by the governor from a 3125  
list of names submitted to the governor by that organization; 3126

(G) A representative of a disability advocacy organization 3127  
located in the state of Ohio, appointed by the governor from a 3128  
list of names submitted to the governor by disability advocacy 3129  
organizations located in the state of Ohio; 3130



(H) A representative of the Ohio chapter of the united way, 3131  
appointed by the governor from a list of names submitted to the 3132  
governor by that organization; 3133

(I) A representative of the Ohio alliance of retired 3134  
Americans, appointed by the governor from a list of names 3135  
submitted to the governor by that organization; 3136

(J) Three representatives of research-based drug 3137  
manufacturers, appointed by the governor from a list of names 3138  
submitted to the governor by the pharmaceutical research and 3139  
manufacturers of America; 3140

(K) A pharmacist licensed under Chapter 4729. of the Revised 3141  
Code, appointed by the governor from a list of names submitted to 3142  
the governor by the Ohio pharmacists association. 3143

**Sec. ~~5110.47~~ 173.872.** The governor shall make initial 3144  
appointments to the Ohio's best Rx program council not later than 3145  
thirty days after ~~the effective date of this section~~ December 18, 3146  
2003. The members appointed by the governor shall serve at the 3147  
pleasure of the governor. If an appointed member's seat becomes 3148  
vacant, the governor shall fill the vacancy not later than thirty 3149  
days after the vacancy occurs and in the manner provided for the 3150  
initial appointment. 3151

**Sec. ~~5110.48~~ 173.873.** The president of the senate and speaker 3152  
of the house of representatives shall serve as co-chairs of the 3153  
Ohio's best Rx program council. 3154

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

representatives, or the minority leader of the house of 3161  
representatives, respectively. 3162

**Sec. ~~5110.49~~ 173.874.** Members of the Ohio's best Rx program 3163  
council shall serve without compensation and shall not be 3164  
reimbursed for any expenses associated with their duties on the 3165  
council. 3166

**Sec. ~~5110.50~~ 173.875.** Except for any part of records that 3167  
contain a trade secret, the Ohio's best Rx program council's 3168  
records are a public record for the purpose of section 149.43 of 3169  
the Revised Code. 3170

**Sec. ~~5110.51~~ 173.876.** Sections 101.82 to 101.87 of the 3171  
Revised Code do not apply to the Ohio's best Rx program council. 3172

**Sec. ~~5110.54~~ 173.88.** (A) The department of ~~job and family~~ 3173  
~~services~~ aging shall compile both of the following lists regarding 3174  
the Ohio's best Rx program: 3175

(1) A list consisting of the name of each drug manufacturer 3176  
that enters into a manufacturer agreement under section ~~5110.21~~ 3177  
173.791 of the Revised Code and the names of the drugs included in 3178  
each manufacturer agreement; 3179

(2) A list consisting of the name of each participating 3180  
terminal distributor and the name of the drug mail order system 3181  
included in the program pursuant to section ~~5110.19~~ 173.78 of the 3182  
Revised Code. 3183

(B) As part of the list compiled under division (A)(1) of 3184  
this section, the department may include aggregate information 3185  
regarding the drugs selected under section ~~5110.30~~ 173.814 of the 3186  
Revised Code that were verified under that section as having per 3187  
unit manufacturer payment amounts that were not more than two per 3188

cent lower than the per unit payment amounts negotiated for the 3189  
same drugs by the program's consulting pharmacy benefit manager 3190  
selected under section ~~5110.04~~ 173.731 of the Revised Code. The 3191  
information shall not identify a specific drug and shall be 3192  
expressed only as a percentage of the sample of drugs selected 3193  
under section ~~5110.30~~ 173.814 of the Revised Code. 3194

(C) The lists compiled under this section are public records 3195  
for the purpose of section 149.43 of the Revised Code. The 3196  
department shall specifically make the lists available to 3197  
physicians, participating terminal distributors, and other health 3198  
professionals. 3199

**Sec. ~~5110.55~~ 173.89.** Information transmitted by or to any of 3200  
the following for any purpose related to the Ohio's best Rx 3201  
program is confidential to the extent required by federal and 3202  
state law: 3203

(A) Drug manufacturers; 3204

(B) Terminal distributors of dangerous drugs; 3205

(C) The department of ~~job and family services~~ aging; 3206

(D) The program's consulting pharmacy benefit manager 3207  
selected under section ~~5110.04~~ 173.731 of the Revised Code; 3208

(E) Ohio's best Rx program participants; 3209

(F) Any other government entity or person. 3210

**Sec. ~~5110.56~~ 173.891.** (A) Except as provided by section 3211  
~~5110.57~~ 173.892 of the Revised Code, all of the following are 3212  
trade secrets, are not public records for the purposes of section 3213  
149.43 of the Revised Code, and shall not be used, released, 3214  
published, or disclosed in a form that reveals a specific drug or 3215  
the identity of a drug manufacturer: 3216

(1) The amounts determined under section ~~5110.23~~ 173.801 of 3217

the Revised Code for payment of claims submitted by participating 3218  
terminal distributors and the drug mail order system included in 3219  
the Ohio's best Rx program pursuant to section ~~5110.19~~ 173.78 of 3220  
the Revised Code; 3221

(2) Information disclosed in a manufacturer agreement entered 3222  
into under section ~~5110.26~~ 173.81 of the Revised Code or in 3223  
communications related to an agreement; 3224

(3) Drug pricing and drug manufacturer payment information 3225  
verified under sections ~~5110.09~~ 173.742 and ~~5110.30~~ 173.814 of the 3226  
Revised Code by the program's consulting pharmacy benefit manager 3227  
selected under section ~~5110.04~~ 173.731 of the Revised Code; 3228

(4) Information contained in or pertaining to an audit 3229  
provided for by the program's consulting pharmacy benefit manager 3230  
under section ~~5110.05~~ 173.732 of the Revised Code; 3231

(5) The elements of the computations made pursuant to 3232  
sections ~~5110.10~~ 173.75, ~~5110.23~~ 173.801, and ~~5110.28~~ 173.812 of 3233  
the Revised Code and any results of those computations that reveal 3234  
or could be used to reveal the manufacturer payment amounts used 3235  
to make the computations. 3236

(B) No person or government entity shall use or reveal any 3237  
information specified in division (A) of this section except as 3238  
required for the implementation of ~~this chapter~~ sections 173.71 to 3239  
173.91 of the Revised Code. 3240

**Sec. ~~5110.57~~ 173.892.** Sections ~~5110.55~~ 173.89 and ~~5110.56~~ 3241  
173.891 of the Revised Code shall not preclude the department of 3242  
~~job and family services~~ aging from disclosing information 3243  
necessary for the implementation of ~~this chapter~~ sections 173.71 3244  
to 173.91 of the Revised Code, including the amount an Ohio's best 3245  
Rx program participant is to be charged when the amount is 3246  
disclosed under section ~~5110.11~~ 173.751 of the Revised Code to 3247

participating terminal distributors or the drug mail order system 3248  
included in the program pursuant to section ~~5110.19~~ 173.78 of the 3249  
Revised Code. 3250

**Sec. ~~5110.58~~ 173.90.** (A) As used in this section, 3251  
"identifying information" means information that identifies or 3252  
could be used to identify an Ohio's best Rx program applicant or 3253  
participant. "Identifying information" does not include aggregate 3254  
information about applicants and participants that does not 3255  
identify and could not be used to identify an individual applicant 3256  
or participant. 3257

(B) Except as provided in divisions (C), (D), and (E) of this 3258  
section, no person or government entity shall sell, solicit, 3259  
disclose, receive, or use identifying information or knowingly 3260  
permit the use of identifying information. 3261

(C)(1) The department of ~~job and family services~~ aging may 3262  
solicit, disclose, receive, or use identifying information or 3263  
knowingly permit the use of identifying information for a purpose 3264  
directly connected to the administration of the Ohio's best Rx 3265  
program, including disclosing and knowingly permitting the use of 3266  
identifying information included in a claim that a participating 3267  
manufacturer audits pursuant to section ~~5110.32~~ 173.82 of the 3268  
Revised Code, contacting Ohio's best Rx program applicants or 3269  
participants regarding participation in the program, and notifying 3270  
applicants and participants regarding participating terminal 3271  
distributors and the drug mail order system included in the 3272  
program pursuant to section ~~5110.19~~ 173.78 of the Revised Code. 3273

(2) The department may solicit, disclose, receive, or use 3274  
identifying information or knowingly permit the use of identifying 3275  
information to the extent required by federal law. 3276

(3) The department may disclose identifying information to 3277

the Ohio's best Rx program applicant or participant who is the 3278  
subject of that information or to the parent, spouse, guardian, or 3279  
custodian of that applicant or participant. 3280

(D)(1) A participating terminal distributor may solicit, 3281  
disclose, receive, or use identifying information or knowingly 3282  
permit the use of identifying information to the extent required 3283  
or permitted by an agreement the distributor enters into under 3284  
section ~~5110.20~~ 173.79 of the Revised Code. 3285

(2) Subject to division (B) of section ~~5110.19~~ 173.78 of the 3286  
Revised Code, the drug mail order system included in the program 3287  
pursuant to section ~~5110.19~~ 173.78 of the Revised Code may 3288  
solicit, disclose, receive, or use identifying information or 3289  
knowingly permit the use of identifying information to the extent 3290  
required or permitted by the department. 3291

(E) A participating manufacturer may, for the purpose of 3292  
auditing a claim pursuant to section ~~5110.32~~ 173.82 of the Revised 3293  
Code, solicit, receive, and use identifying information included 3294  
in the claim. 3295

**Sec. ~~5110.59~~ 173.91.** (A) Except as provided in division (B) 3296  
of this section, the department of ~~job and family services~~ aging 3297  
shall use and preserve records regarding the Ohio's best Rx 3298  
program in accordance with rules adopted under section ~~5110.35~~ 3299  
173.83 of the Revised Code. The department shall use and preserve 3300  
the records in accordance with those rules, regardless of whether 3301  
the department generated the records or received them from another 3302  
government entity or any person. 3303

(B) All records received by the department under sections 3304  
~~5110.09~~ 173.742 and ~~5110.30~~ 173.814 of the Revised Code from the 3305  
program's consulting pharmacy benefit manager selected under 3306  
section ~~5110.04~~ 173.731 of the Revised Code shall be destroyed 3307

promptly after the department has completed the purpose for which 3308  
the information contained in the records was obtained. 3309

**Sec. 173.99.** (A) A long-term care provider, person employed 3310  
by a long-term care provider, other entity, or employee of such 3311  
other entity that violates division (C) of section 173.24 of the 3312  
Revised Code is subject to a fine not to exceed one thousand 3313  
dollars for each violation. 3314

(B) Whoever violates division (C) of section 173.23 of the 3315  
Revised Code is guilty of registering a false complaint, a 3316  
misdemeanor of the first degree. 3317

(C) A long-term care provider, other entity, or person 3318  
employed by a long-term care provider or other entity that 3319  
violates division (E) of section 173.19 of the Revised Code by 3320  
denying a representative of the office of the state long-term care 3321  
ombudsperson program the access required by that division is 3322  
subject to a fine not to exceed five hundred dollars for each 3323  
violation. 3324

(D) Whoever violates division (C) of section 173.44 of the 3325  
Revised Code is subject to a fine of one hundred dollars. 3326

(E) Whoever violates division (B) of section 173.90 of the 3327  
Revised Code is guilty of a misdemeanor of the first degree. 3328

**Sec. 2921.13.** (A) No person shall knowingly make a false 3329  
statement, or knowingly swear or affirm the truth of a false 3330  
statement previously made, when any of the following applies: 3331

(1) The statement is made in any official proceeding. 3332

(2) The statement is made with purpose to incriminate 3333  
another. 3334

(3) The statement is made with purpose to mislead a public 3335  
official in performing the public official's official function. 3336

(4) The statement is made with purpose to secure the payment 3337  
of unemployment compensation; Ohio works first; prevention, 3338  
retention, and contingency benefits and services; disability 3339  
financial assistance; retirement benefits; economic development 3340  
assistance, as defined in section 9.66 of the Revised Code; or 3341  
other benefits administered by a governmental agency or paid out 3342  
of a public treasury. 3343

(5) The statement is made with purpose to secure the issuance 3344  
by a governmental agency of a license, permit, authorization, 3345  
certificate, registration, release, or provider agreement. 3346

(6) The statement is sworn or affirmed before a notary public 3347  
or another person empowered to administer oaths. 3348

(7) The statement is in writing on or in connection with a 3349  
report or return that is required or authorized by law. 3350

(8) The statement is in writing and is made with purpose to 3351  
induce another to extend credit to or employ the offender, to 3352  
confer any degree, diploma, certificate of attainment, award of 3353  
excellence, or honor on the offender, or to extend to or bestow 3354  
upon the offender any other valuable benefit or distinction, when 3355  
the person to whom the statement is directed relies upon it to 3356  
that person's detriment. 3357

(9) The statement is made with purpose to commit or 3358  
facilitate the commission of a theft offense. 3359

(10) The statement is knowingly made to a probate court in 3360  
connection with any action, proceeding, or other matter within its 3361  
jurisdiction, either orally or in a written document, including, 3362  
but not limited to, an application, petition, complaint, or other 3363  
pleading, or an inventory, account, or report. 3364

(11) The statement is made on an account, form, record, 3365  
stamp, label, or other writing that is required by law. 3366



(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, 3398  
shall knowingly present to a sheriff a fictitious or altered 3399  
document that purports to be certification of the person's 3400  
competence in handling a handgun as described in division (B)(3) 3401  
of section 2923.125 of the Revised Code. 3402

(D) It is no defense to a charge under division (A)(6) of 3403  
this section that the oath or affirmation was administered or 3404  
taken in an irregular manner. 3405

(E) If contradictory statements relating to the same fact are 3406  
made by the offender within the period of the statute of 3407  
limitations for falsification, it is not necessary for the 3408  
prosecution to prove which statement was false but only that one 3409  
or the other was false. 3410

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 3411  
(6), (7), (8), (10), (11), (13), (14), or (16) of this section is 3412  
guilty of falsification, a misdemeanor of the first degree. 3413

(2) Whoever violates division (A)(9) of this section is 3414  
guilty of falsification in a theft offense. Except as otherwise 3415  
provided in this division, falsification in a theft offense is a 3416  
misdemeanor of the first degree. If the value of the property or 3417  
services stolen is five hundred dollars or more and is less than 3418  
five thousand dollars, falsification in a theft offense is a 3419  
felony of the fifth degree. If the value of the property or 3420  
services stolen is five thousand dollars or more and is less than 3421  
one hundred thousand dollars, falsification in a theft offense is 3422  
a felony of the fourth degree. If the value of the property or 3423  
services stolen is one hundred thousand dollars or more, 3424  
falsification in a theft offense is a felony of the third degree. 3425

(3) Whoever violates division (A)(12) or (B) of this section 3426  
is guilty of falsification to purchase a firearm, a felony of the 3427  
fifth degree. 3428

(4) Whoever violates division (A)(15) or (C) of this section 3429  
is guilty of falsification to obtain a concealed handgun license, 3430  
a felony of the fourth degree. 3431

(G) A person who violates this section is liable in a civil 3432  
action to any person harmed by the violation for injury, death, or 3433  
loss to person or property incurred as a result of the commission 3434  
of the offense and for reasonable attorney's fees, court costs, 3435  
and other expenses incurred as a result of prosecuting the civil 3436  
action commenced under this division. A civil action under this 3437  
division is not the exclusive remedy of a person who incurs 3438  
injury, death, or loss to person or property as a result of a 3439  
violation of this section. 3440

**Section 5.** That existing sections 127.16, 173.06, 173.062, 3441  
173.99, 2921.13, 5110.01, 5110.02, 5110.021, 5110.03, 5110.04, 3442  
5110.05, 5110.07, 5110.08, 5110.09, 5110.10, 5110.11, 5110.12, 3443  
5110.13, 5110.14, 5110.15, 5110.16, 5110.17, 5110.18, 5110.19, 3444  
5110.20, 5110.21, 5110.22, 5110.23, 5110.24, 5110.25, 5110.26, 3445  
5110.27, 5110.28, 5110.29, 5110.30, 5110.31, 5110.32, 5110.35, 3446  
5110.352, 5110.353, 5110.354, 5110.36, 5110.37, 5110.38, 5110.39, 3447  
5110.40, 5110.42, 5110.43, 5110.45, 5110.46, 5110.47, 5110.48, 3448  
5110.49, 5110.50, 5110.51, 5110.54, 5110.55, 5110.56, 5110.57, 3449  
5110.58, and 5110.59 and sections 173.061, 173.07, 173.071, 3450  
173.072, and 5110.99 of the Revised Code are hereby repealed. 3451

**Section 6.** Sections 4 and 5 of this act take effect July 1, 3452  
2007. 3453

**Section 7.** On July 1, 2007, the Ohio's Best Rx Program and 3454  
all of its functions, assets, and liabilities are transferred from 3455  
the Department of Job and Family Services to the Department of 3456  
Aging. The transferred Program is thereupon and thereafter 3457  
successor to, assumes the obligations of, and otherwise 3458

constitutes the continuation of the Program as it was operated 3459  
under Chapter 5110. of the Revised Code immediately prior to July 3460  
1, 2007. 3461

Any Program business commenced but not completed before July 3462  
1, 2007, shall be completed by the Department of Aging under 3463  
sections 173.71 to 173.91 of the Revised Code. The business shall 3464  
be completed in the same manner, and with the same effect, as if 3465  
completed by the Department of Job and Family Services under 3466  
Chapter 5110. of the Revised Code immediately prior to July 1, 3467  
2007. 3468

No validation, cure, right, privilege, remedy, obligation, or 3469  
liability pertaining to the Program is lost or impaired by reason 3470  
of the Program's transfer from the Department of Job and Family 3471  
Services to the Department of Aging. Each such validation, cure, 3472  
right, privilege, remedy, obligation, or liability shall be 3473  
administered by the Department of Aging pursuant to sections 3474  
173.71 to 173.91 of the Revised Code. 3475

All rules, orders, and determinations pertaining to the 3476  
Program as it was operated under Chapter 5110. of the Revised Code 3477  
immediately prior to July 1, 2007, continue in effect as rules, 3478  
orders, and determinations of the Program under sections 173.71 to 3479  
173.91 of the Revised Code, until modified or rescinded by the 3480  
Department of Aging. If necessary to ensure the integrity of the 3481  
numbering of the Administrative Code, the Director of the 3482  
Legislative Service Commission shall renumber the rules to reflect 3483  
the transfer of the Program from the Department of Job and Family 3484  
Services to the Department of Aging. 3485

Subject to the lay-off provisions of sections 124.321 to 3486  
124.328 of the Revised Code, all of the Program's employees in the 3487  
Department of Job and Family Services shall be transferred to the 3488  
Department of Aging. The transferred employees shall retain their 3489  
positions and all of the benefits accruing to those positions. 3490

The Director of Budget and Management shall determine the 3491  
amount of the unexpended balances in the appropriation accounts 3492  
that pertain to the Program as it was operated under Chapter 5110. 3493  
of the Revised Code immediately prior to July 1, 2007, and shall 3494  
recommend to the Controlling Board their transfer to the 3495  
appropriation accounts that pertain to the Department of Aging. 3496  
The Department of Job and Family Services shall provide full and 3497  
timely information to the Controlling Board to facilitate this 3498  
transfer. 3499

In anticipation of the Program's transfer to the Department 3500  
of Aging, the Department may negotiate or enter into a contract 3501  
with a person to serve as the Program administrator beginning on 3502  
or after July 1, 2007. When negotiating or entering into the 3503  
contract, the Department shall comply with the same provisions 3504  
that apply to the Department of Job and Family Services under 3505  
section 5110.021 of the Revised Code. 3506