

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

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

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

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

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

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

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

(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;

(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;

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

(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;

(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;

(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.

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

(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 connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

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

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

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

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

(13) Applying to dues or fees paid for membership in an organization or association;

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;

(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;

(16) Applying to purchases of tickets for passenger air transportation;

(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;

(18) Applying to the judicial branch of state government;

(19) Applying to purchases of liquor for resale by the division of liquor control;

(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;

(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;

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;

(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;

(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;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5123.199 of the Revised Code;

(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;

(31) Applying to the department of job and family services' purchases of health assistance services under the children's health insurance program part I provided for under section 5101.50 of the Revised Code or the children's health insurance program part II provided for under section 5101.51 of the Revised Code;

(32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence pursuant to section 2907.28 of the Revised Code;

(33) Applying to contracts with a contracting authority or administrative receiver under division (G)(2) of section 5126.055 of the Revised Code;

(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;

(35) Applying to agreements the department of job and family services enters into with terminal distributors of dangerous drugs under section 5110.12 of the Revised Code.

(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.

(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:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) "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.

(H) "Ohio's best Rx program participant" or "participant" means an

individual determined eligible for the Ohio's best Rx program and included under a valid Ohio's best Rx program enrollment card.

(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:

(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;

(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.

(J) "Participating manufacturer" means a drug manufacturer participating in the Ohio's best Rx program pursuant to a rebate agreement.

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

(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:

(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;

(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.

(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.

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

(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.

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

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

(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.

(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.

(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.

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

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

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

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

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

Sec. 5110.03. (A) Except as provided in division (B) of this section, a

drug shall be included in the Ohio's best Rx program if the drug is covered by a state health benefit plan or state retirement system health benefit plan or is covered by a rebate agreement entered into under section 5110.21 of the Revised Code.

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

Sec. 5110.05. (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 a resident of this state;

(2) Have family income, as determined under rules adopted pursuant to section 5110.35 of the Revised Code, that does not exceed two 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 sixty years of age or older;

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

(a) A third-party payer;

(b) The medicaid program;

(c) The children's health insurance program;

(d) The disability medical assistance program;

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

(4) Not have had outpatient prescription drug coverage specified in division (A)(3) of this section during any of the four months preceding the month in which the application or reapplication for the Ohio's best Rx program is made, unless any of the following applies:

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

(b) The third-party payer that paid all or part of the coverage filed for bankruptcy under federal bankruptcy laws.

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

(d) The individual is no longer eligible for the medicaid program.

children's health insurance program, or disability medical assistance program.

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) Require that the participating terminal distributor charge an Ohio's best Rx program participant for each drug included in the program the lesser of (1) the sum of the Ohio's best Rx program price as determined under section 5110.14 of the Revised Code, the professional fee under division (E) of this section, if any, and the administrative fee under division (F) of this section, if any, or (2) the terminal distributor's usual and customary charge;

(E) Permit the participating terminal distributor to add to the Ohio's best Rx program price 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) 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 of the Revised Code;

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

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

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

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

(A) If the drug is not subject to a rebate agreement entered into under section 5110.21 of the Revised Code, the amount computed under division

(A)(1) or (2) of section 5110.27 of the Revised Code, as applicable;

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

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

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

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

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

Sec. 5110.16. A participating terminal distributor or the Ohio's best Rx program administrator shall submit a claim to the department of job and family services for each drug dispensed to an Ohio's best Rx program participant 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 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;

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

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

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

Sec. 5110.17. (A) In accordance with rules adopted under section 5110.35 of the Revised Code and subject to section 5110.19 of the Revised Code, the department of job and family services shall pay a participating terminal distributor or the Ohio's best Rx program administrator for

complete and timely claims for drugs included in the program that are covered by a rebate agreement entered into under section 5110.21 of the Revised Code. The payment for a complete and timely claim shall be made by a date that is not later than two weeks after the claim is received by the department.

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

(1) Multiply the rebate amount for the national drug code number for the drug for which the claim is made, as agreed to under division (B)(4)(a) of section 5110.21 of the Revised Code or computed under division (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;

(2) If 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 rules adopted under section 5110.35 of the Revised Code.

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

(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 terminal distributor or administrator has been overpaid for 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 under this section or collect an amount from the terminal distributor or administrator sufficient to reimburse the department for the overpayment.

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

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

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

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

(C) The claim is for a drug included in the program but the drug is

dispensed to an individual who is not covered by a valid Ohio's best Rx program enrollment card.

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

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

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

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

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

(3) Require that the manufacturer make a rebate payment to the department for each drug specified under division (B)(1) of this section that is dispensed to an Ohio's best Rx program participant;

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

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

(ii) A per unit amount specified by the manufacturer.

(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.

(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;

(6) 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.

(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.

(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.

Sec. 5110.22. If a drug manufacturer has not entered into a rebate agreement under section 5110.21 of the Revised Code with respect to a drug it manufactures that is covered by a state health benefit plan or state retirement system health benefit plan that receives a rebate for the drug from the manufacturer, the department of job and family services shall ask the department of administrative services and each state retirement system to determine whether the drug should be placed, for the following plan year, on a prior authorization list of the state health benefit plan or state retirement system health benefit plan.

Additions made under this section to prior authorization lists shall be made in accordance with state law and applicable collectively bargained agreements.

Sec. 5110.23. (A) The department of job and family services shall compile both of the following:

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

(2) A list consisting of the name of each participating terminal distributor.

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

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

(1) The name of the plan;

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

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

per unit price.

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

(B) The information specified in division (A) of this section shall be submitted in accordance with section 5110.26 of the Revised Code and rules adopted under section 5110.35 of the Revised Code. In the case of a state health benefit plan, the information shall be submitted by the department of administrative services. In the case of a state retirement system health benefit plan, the information shall be submitted by the state retirement system that offers the health benefit plan. The department of administrative services and each state retirement system shall ensure in all of their relationships with other persons that they are able to submit the information to the department of job and family services.

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

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

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

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

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

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

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

(1) If the drug is covered by one or more state health benefit plans or state retirement system health benefit plans, compute the weighted average of the per unit prices under those plans;

(2) If the drug is not covered by any state health benefit plan or state

retirement system health benefit plan, compute a weighted average per unit price using the formula information received under division (A)(3) of section 5110.25 of the Revised Code for comparable drugs covered by one or more state health benefit plans or state retirement system health benefit plans.

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

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

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

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

Sec. 5110.28. The department of job and family services shall use the number of individuals eligible for benefits under a state health benefit plan or state retirement system health benefit plan to compute the weighted averages required by division (C)(1) of section 5110.21 and division (A) of section 5110.27 of the Revised Code.

Sec. 5110.29. The department of job and family services shall report all of the following to each participating terminal distributor and the Ohio's best Rx program administrator in a manner enabling the distributor and administrator to comply with section 5110.14 of the Revised Code:

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

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

(C) The administrative fee, if any, determined by the department in accordance with rules adopted under section 5110.35 of the Revised Code.

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

(1) Rebate payments made by participating manufacturers made pursuant to agreements under section 5110.21 of the Revised Code;

(2) Administrative fees;

(3) The fund's investment earnings.

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

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

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

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

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

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

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

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

(A) Determination of family income for the purpose of division (A)(2) of section 5110.05 of the Revised Code;

(B) For the purpose of section 5110.06 of the Revised Code, the application and annual reapplication process for the program and documentation to be submitted with applications and reapplications for the purpose of verifying eligibility;

(C) For the purpose of section 5110.06 of the Revised Code and subject to section 5110.351 of the Revised Code, the application form for the program;

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

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

(F) 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 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;

(G) Subject to section 5110.353 of the Revised Code, the amount of the administrative fee, if any, participating terminal distributors are to charge Ohio's best Rx program participants 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;

(H) The electronic method for participating terminal distributors and the Ohio's best Rx program administrator to submit claims to the department under section 5110.16 of the Revised Code;

(I) Additional information participating terminal distributors and the Ohio's best Rx program administrator shall include on claims submitted under section 5110.16 of the Revised Code that the department determines is necessary for the department to be able to make payments under section 5110.17 of the Revised Code;

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

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

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

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

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

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

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

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

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

Sec. 5110.351. In adopting a rule under division (C) of section 5110.35 of the Revised Code to prescribe the application form for the Ohio's best Rx program, the department of job and family services shall do all of the following:

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

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

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

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

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

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

Sec. 5110.353. (A) Once a year or, at the discretion of the department of job and family services, at more frequent intervals, the department shall

determine the amount, if any, to be specified in a rule adopted under division (G) of section 5110.35 of the Revised Code as the administrative fee. In determining the amount of the administrative fee, the department shall determine an amount, not exceeding one dollar per transaction, that equals or is less than the amount needed to cover the administrative costs of the Ohio's best Rx program when added to the sum of the following:

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

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

(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 administrative fee to the Ohio's best Rx program council.

Sec. 5110.354. (A) At least once a year or, at the discretion of the department of job and family services, at more frequent intervals, the department shall determine the percentage, if any, to be specified in a rule adopted under division (K) of section 5110.35 of the Revised Code as the rebate administration percentage. The percentage, which shall not exceed five per cent, shall result in an amount that equals or is less than the amount needed to cover the administrative costs of the Ohio's best Rx program when added to the sum of the following:

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

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

(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 administration percentage to the Ohio's best Rx program council.

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

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

Sec. 5110.38. The department of job and family services may coordinate

the Ohio's best Rx program with a state health benefit plan to enhance efficiency, reduce the cost of drugs, and maximize the benefits of the Ohio's best Rx program and state health benefit plans.

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

(A) Create a list of the twenty-five drugs most often dispensed to Ohio's best Rx program participants under the 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, 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 for each drug included on the list created under division (A) of this section.

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

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

Sec. 5110.46. The Ohio's best Rx program council shall consist of the following members:

(A) The president of the senate;

(B) The speaker of the house of representatives;

(C) The minority leader of the senate;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) Drug manufacturers;
- (B) Terminal distributors of dangerous drugs;
- (C) The Ohio's best Rx program administrator;
- (D) The department of job and family services;
- (E) The department of administrative services;
- (F) The state retirement systems;
- (G) A state health benefit plan or state retirement system health benefit plan;
- (H) Ohio's best Rx program participants;
- (I) Any other government entity or person.

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

- (1) The amounts determined under section 5110.17 of the Revised Code;
- (2) Information disclosed in a rebate agreement or in communications related to a rebate 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;
- (4) The elements of the computations under division (C) of section 5110.21 of the Revised Code and under section 5110.27 of the Revised Code and any results of those computations that reveal or could be used to reveal the drug pricing or rebate information and amounts used to make the computations.

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

Sec. 5110.57. Sections 5110.55 and 5110.56 of the Revised Code shall not preclude the department of job and family services from disclosing information necessary for the implementation of this chapter, including the Ohio's best Rx program price to participating terminal distributors or the Ohio's best Rx program administrator under section 5110.29 of the Revised Code.

Sec. 5110.58. (A) As used in this section, "identifying information"

means information that identifies or could be used to identify an Ohio's best Rx program applicant or participant. "Identifying information" does not include aggregate information about applicants and participants that does not identify and could not be used to identify an individual applicant or participant.

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

(C)(1) The department of job and family services and the Ohio's best Rx program administrator may solicit, disclose, receive, or use identifying information or knowingly permit the use of identifying information for a purpose directly connected to the administration of the Ohio's best Rx program, including disclosing and knowingly permitting the use of identifying information included in a claim that a participating manufacturer audits pursuant to division (D) of section 5110.21 of the Revised Code, contacting Ohio's best Rx program applicants or participants regarding participation in the program, and notifying applicants and participants regarding participating terminal distributors.

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

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

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

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

Sec. 5110.59. 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 records received or generated by the

department, any other government entity, or any person.

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

SECTION 2. That existing sections 127.16 and 2921.13 of the Revised Code are hereby repealed.

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

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

JFS DEPARTMENT OF JOB AND FAMILY SERVICES

General Revenue Fund

GRF 600-440	Ohio's Best Rx Start-Up Costs	\$	10,000,000	\$	0
TOTAL GRF	General Revenue Fund	\$	10,000,000	\$	0

State Special Revenue Fund Group

5AA 600-440	Ohio's Best Rx Administration	\$	5,000,000	\$	5,000,000
TOTAL SSR	State Special Revenue Fund	\$	5,000,000	\$	5,000,000

Group

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

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

associated with the Ohio's Best Rx Program Administrator or the payments to participating terminal distributors.

If the Director of the Department of Job and Family Services estimates that the appropriation is insufficient to fully cover start-up costs, the Director shall, in consultation with the Director of the Office of Budget and Management, submit a letter to the Governor, President of the Senate, Speaker of the House of Representatives, and the Minority Leaders of the Senate and House of Representatives. The letter shall declare the additional appropriation authority estimated to be needed and shall show a breakdown of how the additional appropriation authority will be used. The Director of Job and Family Services shall obtain the approval of the Controlling Board for any supplemental appropriation, if required. The amount approved by the Controlling Board is hereby appropriated. The use of state funds for start-up costs shall in no way obligate the state to fund further program costs, as the program is a discount program, not an entitlement program. Any unspent appropriations from fiscal year 2004 may be carried over to fiscal year 2005.

OHIO'S BEST RX ADMINISTRATION

The foregoing appropriation item 600-673, Ohio's Best Rx Administration, shall be used on an ongoing basis to cover expenses associated with the Ohio's Best Rx Program defined in section 5110.33 of the Revised Code. If receipts to the fund exceed the appropriated amounts, the Director of Job and Family Services may request that the Director of Budget and Management increase the appropriation authority of this fund. Upon approval from the Director of Budget and Management, the additional amounts are hereby appropriated.

Within the limits set forth in this act, the Director of Budget and Management shall establish accounts indicating source and amount of funds for each appropriation made in this act, and shall determine the form and manner in which appropriation accounts shall be maintained. Expenditures from appropriations contained in this act shall be accounted for as though made in Am. Sub. H.B. 95 of the 125th General Assembly.

The appropriations made in this act are subject to all provisions of Am. Sub. H.B. 95 of the 125th General Assembly that are generally applicable to such appropriations.

SECTION 5. The codified and uncodified sections of law contained in this act, and the items of law of which they are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the codified and uncodified sections of law contained in this act, and the items of law of which they are composed, go into immediate effect when this act becomes law.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

This act is not of a general and permanent nature and does not require a code section number.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____