

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1580

H.P. 1038

House of Representatives, April 10, 2025

An Act to Prohibit Pharmacy Benefits Managers from Imposing Certain Fees and Pricing

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

A handwritten signature in cursive script, reading "R B. Hunt".

ROBERT B. HUNT

Clerk

Presented by Representative NUTTING of Oakland.
Cosponsored by Representatives: BRIDGEO of Augusta, CLUCHEY of Bowdoinham,
COLLAMORE of Pittsfield, DUCHARME of Madison, FOLEY of Wells, HENDERSON of
Rumford, MORRIS of Turner, OLSEN of Raymond.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 24-A MRSA §4350-F is enacted to read:

3 **§4350-F. Spread pricing prohibition and fairness in pharmacy benefits management**
4 **fees**

5 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
6 following terms have the following meanings.

7 A. "Pharmacy benefits management fee" means a fee that covers the cost of providing
8 one or more pharmacy benefits manager services, as described in section 4347,
9 subsection 17, and that does not exceed the value of the service or services actually
10 performed by the pharmacy benefits manager.

11 B. "Rebate" means:

12 (1) Negotiated price concessions, including but not limited to base price
13 concessions, whether described as a rebate or otherwise;

14 (2) Reasonable estimates of any price protection rebates and performance-based
15 price concessions that may accrue directly or indirectly to the carrier or health plan
16 during the coverage year from a manufacturer, dispensing pharmacy or other party
17 in connection with the dispensing or administration of a prescription drug; and

18 (3) Reasonable estimates of any negotiated price concessions, fees and other
19 administrative costs that are passed through, or are reasonably anticipated to be
20 passed through, to the carrier or health plan and serve to reduce the carrier's or
21 health plan's costs.

22 C. "Spread pricing" means any amount charged or claimed by a pharmacy benefits
23 manager in excess of the ingredient cost for a dispensed prescription drug plus the
24 dispensing fee paid directly or indirectly to any pharmacy or pharmacist on behalf of
25 the health plan, less a pharmacy benefits management fee that conforms with the
26 requirements of this section.

27 **2. No income derived beyond pharmacy benefits manager services fee.** A
28 pharmacy benefits manager may not derive income from pharmacy benefits manager
29 services, as described in section 4347, subsection 17, provided to a carrier or health plan in
30 this State except for income derived from a pharmacy benefits management fee. This
31 subsection may not be construed to permit a pharmacy benefits management fee to be
32 derived from compensation remitted by or on behalf of a pharmaceutical manufacturer,
33 developer or labeler directly or indirectly to a carrier, or to a pharmacy benefits manager
34 under contract with a carrier, related to the carrier's prescription drug benefits. The amount
35 of any pharmacy benefits management fees must be established in the agreement between
36 the pharmacy benefits manager and the carrier or health plan.

37 **3. Setting pharmacy benefits management fees; limitations.** The pharmacy benefits
38 management fee charged by or paid to a pharmacy benefits manager may not be directly or
39 indirectly based or contingent upon:

40 A. The acquisition cost or any other price metric of a drug;

41 B. The amount of savings, rebates or other fees charged, realized or collected by or
42 generated based on the activity of the pharmacy benefits manager; or

C. The amount of premiums, deductibles or other cost sharing or fees charged, realized or collected by the pharmacy benefits manager from patients or other persons on behalf of a patient.

4. Spread pricing prohibited. A pharmacy benefits manager, carrier or health plan may not, either directly or through an intermediary, agent or affiliate, engage in, facilitate or enter into a contract with another person involving spread pricing in this State.

5. Annual certification of compliance. Annually by December 31st, a pharmacy benefits manager operating in the State shall certify to the superintendent that it has fully complied with the requirements of this section throughout the prior calendar year. The certification must be signed by the chief executive officer or chief financial officer of the pharmacy benefits manager.

6. Penalty. Violation of this section is a civil violation for which the superintendent may assess a penalty not to exceed \$1,000 per violation. This subsection may not be construed to preclude the application of any other relevant civil or criminal penalty in state or federal law.

SUMMARY

This bill provides that a pharmacy benefits manager may not derive income from pharmacy benefits manager services provided to a carrier or health plan in this State except for income derived from a pharmacy benefits management fee. The pharmacy benefits management fee may not exceed the value of the services actually performed by the pharmacy benefits manager. The bill prohibits so-called spread pricing, which, under the bill, means amounts charged by a pharmacy benefits manager in excess of the ingredient cost for a dispensed prescription drug, the dispensing fee paid to the pharmacy or pharmacist and the pharmacy benefits management fee.

The bill establishes additional requirements related to what costs may not be included in the pharmacy benefits management fee. The amount of any pharmacy benefits management fees must be established in the agreement between the pharmacy benefits manager and the carrier or health plan.

The bill requires that pharmacy benefits managers annually certify to the Superintendent of Insurance that they are in compliance with the provisions of the bill.

The superintendent may assess a civil penalty for violation of these provisions not to exceed \$1,000 per violation.