

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1999

warranty for firearms or ammunition purchased by a municipality.

See title page for effective date.

CHAPTER 431

S.P. 732 - L.D. 2082

An Act to Reduce the Cost of Prescription Drugs to Qualifying Residents of the State

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

Sec. 1. 22 MRSA §254-B is enacted to read:

§254-B. Maine resident low-cost prescription drug program

The department shall conduct a program, referred to in this section as the "Maine resident low-cost prescription drug program" or the "program," to provide low-cost prescription drugs to qualifying residents of this State.

1. Agreement. A drug manufacturer that sells prescription drugs in this State may voluntarily elect to enter into a rebate agreement with the department. The agreement must be modeled after Section 1927 of the United States Social Security Act and must include the requirement that the manufacturer make rebate payments to the State each calendar quarter or according to a schedule established by the department.

2. Rebate amount. The rebate amount required from a manufacturer to the State is equivalent to the rebate amount calculated under the Medicaid Rebate Program pursuant to 42 United States Code, Section 1396r-8.

3. Discount to qualifying residents. Any participating retail pharmacy that sells drugs covered by an agreement pursuant to subsection 1 shall discount the retail price of those drugs sold to qualifying residents. The department shall adopt rules to establish discounts for covered drugs and rules that promote the use of efficacious and lower-cost drugs. The amount of the discount for covered drugs must be determined by considering an average of all rebates provided pursuant to subsection 2, weighted by sales of drugs subject to these rebates over the most recent 12-month period for which the information is available. The total aggregate discount amount for all covered drugs must be equivalent to the total aggregate rebate amount for all covered drugs sold, less the administrative costs of the program pursuant to subsection 6.

4. Operation of program. Participating retail pharmacies shall submit claims to the department to verify the amount of discount due the resident. The department may not impose charges on retail pharmacies that submit claims or receive payments under the program. The retail pharmacies shall charge residents the current retail price charged by each retail pharmacy for that prescription drug to persons purchasing that drug who are not covered by insurance or 3rd-party payor plans, less the discount amount, pursuant to subsection 3.

The amount of the discount must be indicated on the resident's receipt. On a weekly or biweekly basis, the retail pharmacy must be reimbursed by the department for drug discounts provided to residents. The department shall collect the necessary utilization data from the retail pharmacies submitting claims in order to comply with 42 United States Code, Section 1396r-8. The department shall protect the confidentiality of all information subject to confidentiality protection under state and federal law, rule or regulation.

5. Discrepancies in rebate amounts. Discrepancies in rebate amounts must be resolved using the process established in this subsection.

A. If there is a discrepancy in the manufacturer's favor between the amount claimed by a pharmacy and the amount rebated by the manufacturer, the department, at the department's expense, may hire a mutually agreed-upon independent auditor. Following the audit, if a discrepancy still exists, the manufacturer shall justify the reason for the discrepancy or make payment to the department for any additional amount due.

B. If there is a discrepancy against the interest of the manufacturer in the information provided by the department to the manufacturer regarding the manufacturer's rebate, the manufacturer, at the manufacturer's expense, may hire a mutually agreed-upon independent auditor to verify the accuracy of the data supplied to the department. Following the audit, if a discrepancy still exists, the department shall justify the reason for the discrepancy or refund to the manufacturer any excess payment made by the manufacturer.

C. Following the procedures established in paragraph A or B, either the department or the manufacturer may request a hearing before the Administrative Hearings Unit. Supporting documentation must accompany the request for a hearing.

6. Administrative and associated computer costs for program. Administrative and computer costs for the program must be funded solely from the

rebates received from the pharmaceutical manufacturers. The department may not spend more for the administrative costs and associated computer costs of this program than it spends on the elderly low-cost drug program.

7. Obligation of retail pharmacies in State.

The obligation of retail pharmacies to discount drugs to qualifying residents begins 3 months after the drug manufacturer begins to pay the rebate to the department.

8. Dedicated fund. There is established the Prescription Drug Dedicated Fund, referred to in this section as the "fund," to receive revenue from manufacturers who pay rebates as provided in subsection 1, to reimburse retail pharmacies for discounts provided to residents pursuant to subsections 3 and 4, to reimburse the department for administrative and associated computer costs and to pay other reasonable program costs. The fund is a nonlapsing dedicated fund. Interest on fund balances accrues to the fund. Surplus funds in the fund must be used to increase the amount of discounts given to residents under the program.

9. Annual summary report. The department shall report the status of the program to the Legislature on an annual basis. The report must include information on changes in 3rd-party prescription drug coverage and the financial status of the program.

10. Qualifying resident. Qualifying resident, also referred to in this section as a "resident," means a legal resident of this State who does not have 3rd-party prescription drug coverage.

11. Participating retail pharmacy. Participating retail pharmacy, also referred to in this section as a "retail pharmacy," means a retail pharmacy located in this State, or another business licensed to dispense prescription drugs in this State, that voluntarily elects to participate in the program and that provides discounts to residents as provided in subsection 3.

12. Rulemaking. The department shall adopt rules to implement the provisions of this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 2. Authorization. The Department of Human Services is authorized to receive rebates from drug manufacturers under the Maine resident low-cost prescription drug program, Maine Revised Statutes, Title 22, section 254-B, beginning February 1, 2000 or as soon thereafter as rules are adopted to implement the program.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
HUMAN SERVICES, DEPARTMENT OF		
Prescription Drug Dedicated Fund		
All Other	\$2,500,000	\$10,000,000
Provides funds to establish a program to provide low-cost prescription drugs to Maine residents who are not covered by 3rd-party prescription drug plans.		

See title page for effective date.

CHAPTER 432

H.P. 1577 - L.D. 2224

An Act to Clarify the Definitions of "Contribution" and "Expenditure" under the Campaign Finance Laws

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

Sec. 1. 21-A MRSA §1012, sub-§2, ¶B, as enacted by PL 1985, c. 161, §6, is amended to read:

B. Does not include:

- (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;
- (2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed \$50 with respect to any election;
- (3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed \$50 with respect to any election;