

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

**Legislative Document**

**No. 1066**

H. P. 899

House of Representatives, February 27, 1981

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Boyce of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT to Require the Annual Adjustment of Medicaid Dispensing Fees for Pharmacies.**

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

22 MRSA c. 3 is enacted to read:

**CHAPTER 3**

**ANNUAL ADJUSTMENT OF MEDICAID**

**DISPENSING FEES**

**§ 71. Legislative finding and intent**

1. **Adequate and equitable dispensing fees.** The legislature finds that the economic implications inherent in providing an adequate and equitable dispensing fee for providers in the Medicaid Program is of vital interest to the entire State. If the cost of the fee is too high, the public will be overpaying for services. If the fee is too low, there may be inadequate pharmacy participation in the program as well as increased costs to the non-Medicaid customer as pharmacies try to cover their operating costs.

2. **Insurance that fees accomplish goals.** The Legislature finds that due to existing federal laws and regulations pertaining to Medicaid reimbursements and anti-trust, competitive price structuring is inherently unobtainable under the

present system. As a result, the Legislature finds that it is up to the State to insure that the medicaid dispensing fee accomplishes several goals.

- A. The fee should cover the operating costs of a pharmacy.
- B. The fee should recognize the added costs attributable to filling Medicaid prescriptions.
- C. The fee should encourage complete services.
- D. The fee should encourage efficient services including, but not limited to, incentives for the use of tape to tape computer filing of claims.
- E. The fee should provide a reasonable return on investment.

#### § 72. Survey

The department shall, prior to the development of the department's budget and the convening of the Legislature, conduct a survey or adjust the previous year's survey of pharmacy operational data and submit the survey to the Legislature no longer than 30 days after the convening of the first regular session or the adjusted survey no longer than 15 days after the convening of the second regular session.

#### § 73. Survey elements

In carrying out the survey of pharmacy operational data as required in section 72, the department shall take into account: Personnel costs, direct prescription expenses, direct store expenses, overhead, delivery expenses, profit, inflation, additional costs associated with the filling of unit dose prescriptions of long-term care facilities and costs specifically related to the filling of Medicaid prescriptions, as well as other related costs the department deems necessary.

#### § 74. Format and form

The survey form and data gathering shall be decided upon by the department after consultation with representatives of pharmacies in the State.

#### § 75. Survey timetable

A complete survey shall be done every 2 years prior to the convening of a newly elected Legislature.

On the odd-numbered year when a complete survey is not carried out, the department shall adjust the previous year's survey for inflationary factors and submit these figures as stated in section 72. The adjustments to the survey shall be based on changes in the federal Consumer Price Index for the year in which the adjustments are being determined.

#### § 76. Adjustments in dispensing fees

Each annual budget of the department shall reflect the results of the dispensing fee survey. In its budget request, the department shall provide for a Medicaid dispensing fee increase or decrease based on the 90th percentile of the results of

**the dispensing fee survey or adjusted survey. The increase or decrease shall reflect the results of the survey or adjusted survey taken in the year that the budget is being prepared.**

STATEMENT OF FACT

The purpose of this bill is to require the Department of Human Services to annually review and update the fee paid to pharmacies for providing services to Medicaid patients and to submit this review to the Legislature.