

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1068

H. P. 901

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 Soulas of Bangor.

STATE OF MAINE

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

AN ACT to Establish a Third-party Prescription Program Act.

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

32 MRSA c. 41, sub-c. V is enacted to read:

SUBCHAPTER V

THIRD-PARTY PRESCRIPTION PROGRAMS

§ 2921. Legislative intent

The Legislature finds that certain practices have come to its attention that are unfair to providers of pharmaceutical services, are burdensome and costly to those providers, result in unfair increased costs to certain consumers, and threaten the availability of pharmaceutical services to the public. The Legislature further finds that there is a need for regulation of certain practices engaged in by some third-party prescription program administrators.

§ 2922. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Clean claims. "Clean claims" means any claims submitted by the pharmacy that contains no mistakes or incomplete information that would prohibit the third-party program from processing the claim.

2. **Third-party prescription program.** “Third-party prescription program” means any system of providing for the reimbursement of pharmaceutical services under a contractual arrangement or agreement between a provider of those services. These programs may include, but are not limited to, employee benefit plans whereby a consumer receives prescription drugs or other pharmaceutical services and those services are paid for by an agent of the employer or others.

§ 2923. **Notice**

After the effective date of this subchapter, no third-party prescription program may be instituted in this State unless:

1. **Notice.** The program administrator has given written notice, by registered mail, of the particular program to all pharmacies in the State; and

2. **Opportunity to enroll.** All pharmacies in this State have had 90 days from the date of that notice to enroll in the particular program.

§ 2924. **Required contractual provisions**

Any agreement or contract entered into in this State between the program administrator of the third-party program and a pharmacy shall include a statement of the method and amount of reimbursement to the pharmacy for services rendered to persons enrolled in the program, the frequency of payment by the program administrator to the pharmacy for those services rendered, and a method for the adjudication of complaints or the settlement of disputes between the parties, which may include an independent arbitrator.

§ 2925. **Use of eligibility cards**

Any third-party prescription program operating in this State under this statute shall provide to its enrollees, as proof of eligibility, an eligibility card. The card shall, among other information, contain an expiration date. The date shall be no longer than 2 years from the date the card was issued.

§ 2926. **Cancellation and use of eligibility card after cancellation**

1. **Notice of cancellation.** The administrator of a program shall notify, by registered mail, all pharmacies enrolled in the program of any cancellation of the coverage benefits of any group enrolled in the program at least 30 days prior to the effective date of the cancellation. Provided that, in those cases wherein the administrator of a program is not notified at least 30 days prior to the effective date of the cancellation, he shall notify all pharmacies enrolled in the program of the cancellation as soon as practicable after having received the notice.

2. **Retrieval of plan identification cards.** All persons enrolled in a program shall be notified of its cancellation and the administrator of the program shall make every reasonable effort to gain possession of any plan identification or eligibility cards those persons may have been issued pursuant to the program.

3. **Liability of persons using identification card after notice of cancellation.**

Any person who utilizes a program identification card to obtain services from a pharmacy after having received notice of the cancellation of his benefits shall be liable to the program administrator for all moneys paid by the program administrator for any services received pursuant to the illegal use of the identification card.

**§ 2927. Denial of payment**

1. Denial of payment for illegal use of card. No program administrator may deny payment for services to any pharmacy which may have resulted from the fraudulent or illegal use of an identification card by any person unless the pharmacy has been notified that the card has been cancelled or discontinued and that the program administrator has been unsuccessful in attempting to regain possession of the card.

2. Withholding payment beyond time specified in agreement. No program administrator may withhold any payments to any pharmacy beyond the time period specified in the payment schedule provisions of the agreement, except that individual claims for payment may be returned to the pharmacy for causes which would prohibit the third-party program from processing the claim and may then be resubmitted by the pharmacy to the program administrator after the appropriate corrections have been made.

3. Payment not denied in case of dispute. No program administrator may deny payment for services to any pharmacy in the case of a dispute between the customer and the third-party prescription program, unless the pharmacy has received notice of the customer's loss of eligibility as required in section 2926.

**§ 2928. Interest or late charge**

If at any time a third-party prescription program fails to pay a pharmacy a clean claim within 30 days from the date that claim is received by the third-party prescription program, regardless of the time period specified in the payment schedule provisions of the agreement, that pharmacy may charge the third-party prescription program interest or a late charge on the overdue amount in accordance with that pharmacy's individual practices regarding overdue accounts and the laws of the State.

**§ 2929. Reimbursement rates and registration fees**

No agreement between a program administrator and a pharmacy may establish reimbursement rates or procedures that result in reimbursement rates for services rendered to persons covered by the plan which are less than the prevailing rates paid by ordinary consumers for the same or similar services plus an administrative fee adequate enough to cover the added costs of handling the third-party program claims.

A third-party prescription program is prohibited from charging a pharmacy a registration fee or other fixed charges either annually or otherwise, except in cases where a charge is necessary to specifically cover any equipment, forms or materials required by the program.

**§ 2930. Listing of claims**

All third-party prescription programs shall submit, with the payment checks to a pharmacy, a list of the claims being paid, the amount being paid on the particular claim and a list of any claims pending at that date which were not paid in the enclosed check.

**§ 2931. Contract renewal**

1. **Change in benefit.** Any change in benefits or provisions in any contract cannot be made unilaterally by either the program administrator or the pharmacy. Any change in a contract offered to one pharmacy shall be offered to all Maine pharmacies participating in the program.

2. **Renegotiation.** No contract made under this subchapter may be in force for a period longer than 2 years, at which time it shall be renegotiated.

**§ 2932. Existing contracts**

Any contracts already existing on the effective date of this subchapter shall be allowed to remain in force for no longer than 2 years following the effective date, at which time the contract shall be renegotiated under this subchapter.

**§ 2933. Failure to comply**

Failure to comply with this subchapter is a civil violation for which a forfeiture of not less than \$100 nor more than \$500 shall be adjudged for each violation.

**§ 2934. Exception**

This subchapter does not apply to any services rendered pursuant to the Maine Medicaid Program.

**STATEMENT OF FACT**

This bill seeks to address several problems faced by pharmacies when confronted with third-party prescription programs by establishing the rights and responsibilities of parties engaged in third-party prescription programs; providing for notice and cancellation procedures; and outlining the conditions under which payment by the program administrator may or may not be denied, allowing pharmacies to charge interest on overdue accounts and establishing reimbursement rates.