

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 621

6
7 S.P. 199

In Senate, February 7, 1983

8 Received by the Secretary of the Senate on February 7, 1983. Referred to
9 the Committee on Business Legislation, and ordered printed pursuant to Joint
10 Rule 14.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Twitchell of Oxford.

Cosponsor: Representative MacBride of Presque Isle.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Establish the
18 Third-party Prescription
19 Program Act.
20

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

23 32 MRSA c. 41, sub-c. VI is enacted to read:

24 SUBCHAPTER VI

25 THIRD-PARTY PRESCRIPTION PROGRAM ACT

26 §2931. Legislative intent

27 The Legislature finds that certain practices and
28 policies exist which are unfair to providers of
29 pharmaceutical services and result in increased costs
30 to consumers and threaten the availability of pharma-
31 ceutical services to the public. The purpose of this

1 Act is to provide minimum standards which will apply
2 to all third-party prescription programs for the ben-
3 efit of the general public and the providers of
4 pharmaceutical services.

5 §2932. Short title

6 This Act may be cited as the Third-party Pre-
7 scription Program Act.

8 §2933. Definition

9 As used in this Act, "Third-party Prescription
10 Program" means any system of providing for the reim-
11 bursement of pharmaceutical goods and services under
12 a contractual arrangement or agreement between a
13 provider of goods and services and another party who
14 is not the consumer of those goods and services.
15 These programs may include, but not be limited to,
16 insurance plans which provide coverage for prescrip-
17 tion drugs or other pharmaceutical services.

18 §2934. Notice

19 No third-party prescription program may be insti-
20 tuted in this State until written notice of the
21 provisions of this program has been filed with the
22 Superintendent of Insurance and given to all
23 pharmacies which are located within the counties cov-
24 ered by the program at least 30 days prior to the
25 commencement of the program. These pharmacies shall
26 have 30 days from the date of notice to enroll in the
27 program.

28 §2935. Required contractual provisions

29 1. Contractual provisions. Any agreement or con-
30 tract entered into in this State between the program
31 administrator of a third-party prescription program
32 and a pharmacy shall include a statement of the
33 method and amount of reimbursement to the pharmacy
34 for services rendered to persons enrolled in the pro-
35 gram, the frequency of payment by the program admin-
36 istrator to the pharmacy for services rendered and a
37 method for the adjudication of complaints or the set-
38 tlement of disputes between the parties.

1 2. Payment of claims. All valid claims for
2 pharmaceutical goods and services shall be paid
3 within 30 days of the date that the claim is received
4 by the administrator of the program, except that
5 claims may be returned to the pharmacy for resubmis-
6 sion because of incomplete, inaccurate or illegible
7 information.

8 3. Identification card. The program administrator
9 shall issue or cause to be issued an identification
10 card to each person enrolled in the program. The
11 identification card shall include:

12 A. The name of the individual enrolled in the
13 program;

14 B. The name or names of any other person or per-
15 sons entitled to benefits under the program by
16 virtue of the enrollment of the principal benefi-
17 ciary unless a separate card is issued to each
18 and every secondary beneficiary; and

19 C. An expiration date. The date shall be no
20 longer than 2 years from the date the card was
21 issued.

22 §2936. Cancellation

23 1. Notice of cancellation. The administrator of a
24 program shall notify each pharmacy enrolled in the
25 program of any cancellation of coverage of benefits
26 of any group enrolled in the program at least 30 days
27 prior to the effective date of the cancellation. The
28 pharmacy shall be reimbursed for the product and ser-
29 vices rendered until the effective date of cancella-
30 tion or 30 days after the receipt of the cancellation
31 notice, whichever is later.

32 2. Retrieval of identification cards. All persons
33 enrolled in the program shall be notified of its can-
34 cellation and the administrator of the program shall
35 make every reasonable effort to gain possession of
36 their program identification cards.

37 3. Liability of persons using identification
38 cards after notice of cancellation. Any person who
39 utilizes a program identification card to obtain ser-

1 vices from a pharmacy after having received notice of
2 the cancellation of his benefits shall be liable to
3 the program administrator for any services received
4 pursuant to the illegal use of the card.

5 §2937. Denial of payment

6 1. Denial of payment for illegal use of cards. No
7 program administrator may deny payment for services
8 to any pharmacy which may have resulted from the
9 fraudulent or illegal use of an identification card
10 by any person unless the pharmacy has been notified
11 that the card has been canceled or discontinued and
12 that the program administrator has been unsuccessful
13 in attempting to regain possession of the card.

14 2. Withholding payment beyond time specified in
15 agreement. No program administrator may withhold any
16 payments to any pharmacy beyond the time period
17 specified in the payment schedule provisions of the
18 agreement, except that individual claims for payment
19 may be returned to the pharmacy for causes such as
20 incomplete or illegible information and may then be
21 resubmitted by the pharmacy to the program adminis-
22 trator after the appropriate corrections have been
23 made.

24 3. Interest. The amount of any valid claim not
25 paid within the specified time period, except claims
26 returned to the pharmacy as stated in this section,
27 shall be subject to the maximum interest rate allowed
28 by state law.

29 §2938. Reimbursement rates

30 1. Reimbursement rates. No agreement between a
31 program administrator and a pharmacy may establish
32 reimbursement rates or procedures that result in the
33 reimbursement for goods or services relating to per-
34 sons covered by the plan, which are less than the
35 prevailing rates paid by ordinary consumers for the
36 same or similar legend or nonlegend drugs and pharma-
37 ceutical services.

38 2. Administrative fee. Any agreement between the
39 program administrator and a pharmacy shall recognize
40 the additional and extraordinary costs involved in

1 filling a 3rd-party prescription by providing for the
2 reimbursement to the pharmacy of an administrative
3 fee. Such a fee shall be adequate enough to cover the
4 added costs of handling the third-party prescription
5 program claims and shall be established by the pro-
6 gram administrator. When establishing these fees, the
7 program administrator must consider the added costs
8 of checking eligibility, paper work and postage,
9 among other things, and review current literature on
10 this subject.

11 Such a fee shall be updated periodically and shall be
12 recognized in the contract as a separate and distinct
13 reimbursable entity and shall not be incorporated
14 into a single dispensing fee.

15 3. Fixed charges. A third-party prescription pro-
16 gram is prohibited from charging a pharmacy a regis-
17 tration fee or other fixed charges, either annually
18 or otherwise, except in cases where a charge is
19 necessary to specifically cover any equipment, forms
20 or materials required by the program.

21 §2939. Contract renewal and changes

22 Any change in benefits or provisions in any con-
23 tract cannot be made unilaterally by either the pro-
24 gram administrator or the pharmacy. Any change in a
25 contract offered to one pharmacy shall be offered to
26 all Maine pharmacies participating in the program.

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

30 §2940. Fiduciary and bonding requirements

31 1. Fiduciary. A third-party prescription program
32 administrator shall establish and maintain a fidu-
33 ciary account, separate and apart from any and all
34 other accounts, the fiduciary account being held
35 apart for the receipt of and disbursement of funds
36 for reimbursement or providers of services under a
37 third-party prescription program.

38 2. Bonding. The third-party prescription program
39 administrator shall post, or cause to be posted, a

1 bond of indemnity in an amount not less than 25% of
2 the estimated annual reimbursements under the pro-
3 gram. The bond of indemnity shall be posted for each
4 and every third-party prescription program. The bond
5 of indemnity shall be held by the Superintendent of
6 Insurance for the benefit and indemnification of the
7 providers of services under the third-party prescrip-
8 tion program.

9 3. Consistency with state law. Establishment of
10 either the fiduciary account or bond shall be con-
11 sistent with applicable state law.

12 4. Operation of more than one program. An admin-
13 istrator who operates more than one third-party pre-
14 scription program shall establish and maintain a sep-
15 arate fiduciary account or bond of indemnity for each
16 and every third-party prescription program or may
17 operate and maintain a consolidated fiduciary account
18 or bond of indemnity for all programs.

19 §2941. Exceptions

20 This Act does not apply to any services rendered
21 pursuant to the Maine Medicaid Program or the Maine
22 Drugs to the Elderly Program.

23 §2942. Failure to comply

24 Failure to comply with this subchapter is a civil
25 violation for which a forfeiture of not less than
26 \$500 nor more than \$1,000 shall be adjudged for each
27 violation, plus reasonable attorneys' fees and costs,
28 declaratory and injunctive relief and any other
29 relief which the court deems proper.

30 STATEMENT OF FACT

31 This bill seeks to address several problems faced
32 by pharmacies when confronted with third-party pre-
33 scription programs by establishing the rights and
34 responsibilities of parties engaged in third-party
35 prescription programs, providing for notice and can-
36 cellation procedures, outlining the conditions under
37 which payment by the program administrator may or may
38 not be denied, allowing pharmacies to charge interest

1 on overdue accounts and establishing reimbursement
2 rates and requiring third-party programs to establish
3 fiduciary accounts or bonds of indemnity.

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