MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib

Reproduced from scanned originals with text recognition applied

(searchable text may contain some errors and/or omissions)

L.D. 27

(Filing No. S-24)

STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 24, L.D. 27, Bill, "An Act to Make Additional Appropriations and Allocations for the Expenditures of State Government for the Fiscal Year Ending June 30, 1993"

Amend the amendment in Part A in section 1 in that part designated "**HUMAN SERVICES, DEPARTMENT OF**" in that part related to "**Low-cost Drugs to Maine's Elderly**" in the 5th line (page 12, line 47 in amendment) by inserting after the following: "drugs" the following: 'as defined in the Maine Revised Statutes, Title 22, section 254, subsection 4-A'

Further amend the amendment in Part A in section 1 in that part designated "**HUMAN SERVICES, DEPARTMENT OF**" in the 2nd part related to "**Medical Care - Payment to Providers**" by striking out all of the 3rd to 13th lines (page 13, lines 41 to 51 in amendment) and inserting in their place the following:

'Provides for the deappropriation of funds due to increasing the copayments for "generic" and "brand name" drugs to $2 and $3, respectively and redefining "brand name" drug in the Maine Revised Statutes, Title 22, section 3173-C, subsection 2; removing the monthly limit of copayments; requiring a 1¢ per mile reduction in Medicaid reimbursement to transportation providers; and requiring copayments for various Medicaid services.'

Further amend the amendment in Part C by striking out all of sections 1 to 4 and inserting in their place the following:

'**Sec. C-1. 22 MRSA §254, first and 2nd ¶¶,** as affected by PL 1991, c. 780, Pt. R, §§8 and 10, are amended to read:

SENATE AMENDMENT

SENATE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 24, L.D. 27

The Department of Human Services may conduct a program to provide low-cost prescription and nonprescription drugs, medication and medical supplies to disadvantaged, elderly individuals. In any year in which this program is conducted, it must include any prescription drugs used for the treatment of chronic obstructive lung disease. ~~To fund the addition of drugs for this ailment, the amount that a recipient pays toward the cost of any covered purchase is $3 for generic or single-source drugs or $5 for brand name, multisource drugs. If the initial projections for expenditures in the chronic obstructive lung disease program indicate that funding for the total program will be inadequate for the remainder of the fiscal year, that part of the program dealing with chronic obstructive lung disease must be discontinued for the remainder of the fiscal year.~~ ~~The department shall keep cost and utilization records necessary to evaluate the chronic obstructive lung disease program and report on this program to the Legislature by January 1989.~~

In any year in which this program is conducted, it must include antiarthritic drugs ~~and the amount that a recipient pays toward the cost of any covered purchase is $3 for generic or single-source drugs or $5 for brand name, multisource drugs.~~

Sec. C-2. 22 MRSA §254, 3rd ¶, as amended by PL 1991, c. 591, Pt. P, §5, is further amended to read:

In any year in which this program is conducted, it must include anticoagulant drugs ~~and the amount that a recipient pays toward the cost of any covered purchase is $3 for generic or single-source drugs or $5 for brand name, multisource drugs.~~

Sec. C-3. 22 MRSA §254, sub-§4-A, as affected by PL 1991, c. 780, Pt. R, §§8 and 10, is amended to read:

4-A. Payment for drugs provided. The commissioner may establish the amount of payment to be made by recipients toward the cost of prescription or nonprescription drugs, medication and medical supplies furnished under this program provided that the total cost for any covered purchase of a prescription or nonprescription drug or medication does not exceed ~~$3~~ $6 for generic ~~or single-source~~ drugs or ~~$5~~ $10 for brand-name, ~~multisource~~ drugs. For the purposes of this section, a brand-name drug is defined as a single-source drug, a cross-licensed drug or an innovator drug for which a lower-cost generic equivalent is available. If a recipient is prescribed a drug in a quantity specifically intended by the provider or pharmacist, for the recipient's health and welfare, to last less than one month, only one payment for that drug for that month is required; and

Sec. C-4. 22 MRSA §254, sub-§8, as enacted by PL 1991, c. 671, Pt. L, §1, is amended to read:

8. Drug rebate program. Effective May 1, 1992, payment must be denied for drugs from manufacturers that do not enter into a rebate agreement with the department for prescription drugs included in the list of approved drugs under this program. ~~As of that date, the department must have prescription drug rebate agreements with individual pharmaceutical manufacturers of the prescription drugs included in the list of approved drugs under that program.~~ Each agreement must provide that the pharmaceutical manufacturer make ~~semiannual~~ rebate payments to the department ~~equal to 11% of the manufacturer's wholesale price for the total number of dosage units of each form and strength of a prescription drug that the department reports as reimbursed to providers of prescription drugs, provided payments are not due until 30 days following the manufacturer's receipt of utilization data supplied by the department, including the number of dosage units reimbursed to providers of prescription drugs during the period for which payment is due.~~ according to the following schedule.

A. For the period beginning May 1, 1992 and ending September 30, 1992, the rebate percentage is equal to 11% of the manufacturer's wholesale price for the total number of dosage units of each form and strength of a prescription drug that the department reports as reimbursed to providers of prescription drugs, provided payments are not due until 30 days following the manufacturer's receipt of utilization data supplied by the department, including the number of dosage units reimbursed to providers of prescription drugs during the period for which payment is due.

B. For the quarters beginning October 1, 1992, the rebate percentage is equal to 15% of the manufacturer's wholesale price for the total number of dosage units of each form and strength of a prescription drug that the department reports as reimbursed to providers of prescription drugs, provided payments are not due until 30 days following the manufacturer's receipt of utilization data supplied by the department, including the number of dosage units reimbursed to providers of prescriptions drugs during the period for which payments is due.

Upon receipt of data from the department, the pharmaceutical manufacturer shall calculate the ~~semiannual~~ quarterly payment. If a discrepancy is discovered, the department may, at its expense, hire a mutually agreed-upon independent auditor to verify the pharmaceutical manufacturer's calculation. If a

discrepancy is still found, the pharmaceutical manufacturer shall justify its calculation or make payment to the department for any additional amount due. The pharmaceutical manufacturer may, at its expense, hire a mutually agreed-upon independent auditor to verify the accuracy of the utilization data provided by the department. If a discrepancy is discovered, the department shall justify its data or refund any excess payment to the pharmaceutical manufacturer.

If the dispute over the rebate amount is not resolved, a request for a hearing with supporting documentation must be submitted to the Administrative Hearings Unit. Failure to resolve the dispute may be cause for terminating the drug rebate agreement and denying payment to the pharmaceutical manufacturer for any drugs.

All prescription drugs of a pharmaceutical manufacturer who enters into an agreement pursuant to this subsection that appear on the approved list of drugs must be immediately available and the cost of the drugs must be reimbursed and is not subject to any restrictions or prior authorization requirements. Any prescription drug of a manufacturer that does not enter into an agreement is not reimbursable unless the department determines the prescription drug is essential. The department shall seek a manufacturer's rebate for pharmaceuticals used in the Maine Health Program.'

Further amend the amendment in Part C by striking out all of section 6 (page 41, lines 21 to 35 in amendment) and inserting in its place the following:

'**Sec. C-6. 22 MRSA §3173-C, sub-§2,** as amended by PL 1991, c. 591, Pt. P, §10, is further amended to read:

2. Prescription drug services. Except as provided in subsections 3 and 4, a payment of $~~1~~ $2 for generic ~~or single-source~~ drugs and $~~2~~ $3 for brand-name~~, multisource~~ drugs is to be collected from the Medicaid recipient for each drug prescription that is an approved Medicaid service. For the purposes of this section, a brand-name drug is defined as a single-source drug, a cross-licensed drug or an innovator drug for which a lower-cost generic equivalent is available. If a recipient is prescribed a drug in a quantity specifically intended by the provider or pharmacist, for the recipient's health and welfare, to last less than one month, only one payment for that drug for that month is required.'

SENATE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 24, L.D. 27

FISCAL NOTE

This amendment will have no net affect on General Fund appropriations or revenues.

STATEMENT OF FACT

This amendment clarifies the definition of "generic" and "brand-name" drugs to ensure that certain savings are achieved in the elderly low-cost drug program and the Medicaid program. This amendment also makes the higher rebate percentage effective October 1, 1992 and eliminates the prospective payment schedule for May and June 1993.

(Senator PEARSON)
SPONSORED BY:

COUNTY: Penobscot

Reproduced and Distributed Pursuant to SEnate Rule 12.
(2/16/93) (Filing No. S-24)

SENATE AMENDMENT