

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)

90K
R.O.S.

L.D. 27

(Filing No. S-25)

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44

STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "C" 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' and in the last line (page 13, line 4 in amendment) by striking out the following: "January 1, 1993" and inserting in its place the following: 'October 1, 1992'

Further amend the amendment in Part A in section 1 in that part designated "HUMAN SERVICES, DEPARTMENT OF" by striking out all of the 2nd part related to "Medical Care - Payments to Providers" (page 13, lines 37 to 51 in amendment).

Further amend the amendment in Part A in section 1 in that part designated "HUMAN SERVICES, DEPARTMENT OF" by striking out all of the last line (page 15, line 23 in amendment) and inserting in its place the following:

'TOTAL 15,531,764'

Further amend the amendment in Part A in section 1 by striking out all of the last line (page 24, line 38 in amendment) and inserting in its place the following:

'TOTAL APPROPRIATIONS \$21,442,554'

SENATE AMENDMENT

2 Further amend the amendment in Part A in section 2 in that
part designated "HUMAN SERVICES, DEPARTMENT OF" by
4 striking out all of the 2nd part related to "Medical Care -
Payments to Providers" (page 27, lines 50 and 51 and page 28,
lines 2 to 14 in amendment).

6
8 Further amend the amendment in Part A in section 2 in that
part designated "HUMAN SERVICES, DEPARTMENT OF" by
10 striking out all of the last line (page 28, line 26 in amendment)
and inserting in its place the following:

12 'TOTAL 27,527,829'

14 Further amend the amendment in Part A in section 2 by
striking out all of the last line (page 29, line 18 in amendment)
16 and inserting in its place the following:

18 'TOTAL ALLOCATIONS \$27,486,882'

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

22 'Sec. C-1. 22 MRSA §254, first and 2nd ¶¶, as affected by PL
24 1991, c. 780, Pt. R, §§8 and 10, are amended to read:

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

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

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

R. of S.

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

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

6
8 **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:

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

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

28
30 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
32 drugs included in the list of approved drugs under this program.
~~As of that date, the department must have prescription drug~~
34 ~~rebate agreements with individual pharmaceutical manufacturers of~~
~~the prescription drugs included in the list of approved drugs~~
36 ~~under that program. Each agreement must provide that the~~
pharmaceutical manufacturer make semiannual rebate payments to
38 the department equal to 11% of the manufacturer's wholesale price
~~for the total number of dosage units of each form and strength of~~
40 ~~a prescription drug that the department reports as reimbursed to~~
~~providers of prescription drugs, provided payments are not due~~
42 ~~until 30 days following the manufacturer's receipt of utilization~~
~~data supplied by the department, including the number of dosage~~
44 ~~units reimbursed to providers of prescription drugs during the~~
~~period for which payment is due.~~ according to the following
46 schedule.

48 A. For the period beginning May 1, 1992 and ending
50 September 30, 1992, the rebate percentage is equal to 11% of
the manufacturer's wholesale price for the total number of

2 dosage units of each form and strength of a prescription
3 drug that the department reports as reimbursed to providers
4 of prescription drugs, provided payments are not due until
5 30 days following the manufacturer's receipt of utilization
6 data supplied by the department, including the number of
7 dosage units reimbursed to providers of prescription drugs
8 during the period for which payment is due.

9
10 B. For the quarters beginning October 1, 1992, the rebate
11 percentage is equal to 15% of the manufacturer's wholesale
12 price for the total number of dosage units of each form and
13 strength of a prescription drug that the department reports
14 as reimbursed to providers of prescription drugs, provided
15 payments are not due until 30 days following the
16 manufacturer's receipt of utilization data supplied by the
17 department, including the number of dosage units reimbursed
18 to providers of prescriptions drugs during the period for
19 which payments is due.

20 Upon receipt of data from the department, the pharmaceutical
21 manufacturer shall calculate the ~~semiannual~~ quarterly payment.
22 If a discrepancy is discovered, the department may, at its
23 expense, hire a mutually agreed-upon independent auditor to
24 verify the pharmaceutical manufacturer's calculation. If a
25 discrepancy is still found, the pharmaceutical manufacturer shall
26 justify its calculation or make payment to the department for any
27 additional amount due. The pharmaceutical manufacturer may, at
28 its expense, hire a mutually agreed-upon independent auditor to
29 verify the accuracy of the utilization data provided by the
30 department. If a discrepancy is discovered, the department shall
31 justify its data or refund any excess payment to the
32 pharmaceutical manufacturer.

33
34 If the dispute over the rebate amount is not resolved, a request
35 for a hearing with supporting documentation must be submitted to
36 the Administrative Hearings Unit. Failure to resolve the dispute
37 may be cause for terminating the drug rebate agreement and
38 denying payment to the pharmaceutical manufacturer for any drugs.

39
40 All prescription drugs of a pharmaceutical manufacturer who
41 enters into an agreement pursuant to this subsection that appear
42 on the approved list of drugs must be immediately available and
43 the cost of the drugs must be reimbursed and is not subject to
44 any restrictions or prior authorization requirements. Any
45 prescription drug of a manufacturer that does not enter into an
46 agreement is not reimbursable unless the department determines
47 the prescription drug is essential. The department shall seek a
48 manufacturer's rebate for pharmaceuticals used in the Maine
49 Health Program.'

50

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

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 for generic or single-source drugs and \$2 for brand-name, multi-source 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.'

Further amend the amendment in Part C by striking out all of sections 7 and 8.

Further amend the amendment by inserting at the end before the emergency clause the following:

PART V

Sec. V-1. Transfer of funds. Notwithstanding the Maine Revised Statutes, Title 35-A, section 116, or any other provision of law, and in addition to any other transfer from the Public Utilities Commission Regulatory Fund required by this Act, \$168,000 must be transferred from the Public Utilities Commission Regulatory Fund to the General Fund undedicated revenue by June 30, 1993.'

Further amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

FISCAL NOTE


This amendment increases total General Fund appropriations by \$168,000 in fiscal year 1992-93 as a result of eliminating the increase in copayments for drugs and home health services and eliminating a 1¢ per mile reduction in reimbursement for transportation services in the Medicaid program. This amendment also transfers an additional \$168,000 from the Public Utilities Commission Regulatory Fund to the General Fund.

2 This amendment will have no net effect on the General Fund
4 savings established in the bill.

6
8 **STATEMENT OF FACT**

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

16 This amendment also transfers an additional \$168,000 from
18 the Public Utilities Commission Regulatory Fund to the General
20 Fund, eliminates the increase in copayments to Medicaid clients
for drugs and home health services and eliminates the 1¢ per mile
reduction in reimbursement for Medicaid transportation services.

22
24 (Senator PEARSON)
26 SPONSORED BY: 
28 COUNTY: Penobscot

Reproduced and Distributed Pursuant to Senate Rule 12.
(2/17/93) (Filing No. S-25)