

# MAINE STATE LEGISLATURE

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L.D. 2218

DATE: 3-26-98

(Filing No. H-1074)

APPROPRIATIONS AND FINANCIAL AFFAIRS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1587, L.D. 2218, Bill, "An Act to Implement the Recommendations of the Task Force On Improving Access to Prescription Drugs for the Elderly"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Recommendations of the Task Force on Improving Access to Prescription Drugs for the Elderly'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 22 MRSA §254, sub-§8, ¶B, as amended by PL 1993, c. 410, Pt. I, §6, is further amended to read:

B. For the quarters beginning October 1, 1992 and ending on the date paragraph C takes effect, the rebate percentage is equal to the percentage recommended by the federal Health Care Financing Administration 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

COMMITTEE AMENDMENT

2 department, including the number of dosage units reimbursed  
to providers of ~~prescriptions~~ prescription drugs during the  
4 period for which payments is are due.

6 **Sec. 2. 22 MRSA §254, sub-§8, ¶C** is enacted to read:

8 C. For the quarter beginning 30 days following approval of  
an increased Medicaid rebate pursuant to section 3174-R and  
each quarter thereafter, rebate payments under this section  
10 must be calculated in the same manner as rebates are  
calculated pursuant to section 3174-R.

12 **Sec. 3. 22 MRSA §254-A** is enacted to read:

14 **§254-A. Elderly low-cost drug program information**

16 The department shall produce and provide educational  
18 materials about the availability of benefits under and  
application process for the elderly low-cost drug program  
20 established under section 254. These materials must include  
brochures for the Bureau of Revenue Services to mail to eligible  
22 residents with drug cards, posters for pharmacies and flyers for  
pharmacists to include with prescription drug purchases.

24 **Sec. 4. 22 MRSA §3174-G, sub-§1-A** is enacted to read:

26 **1-A. Elderly prescription drug program.** The department  
28 shall apply to the federal Health Care Financing Administration  
for a waiver to provide Medicaid prescription drug benefits to  
30 qualified persons 62 years of age or older. The department must  
seek the highest income level for which the department is able to  
32 obtain federal approval. The department shall limit the state  
share of program costs to the General Fund amounts available to  
34 the department from appropriations to the Low Cost Drugs for  
Maine's Elderly program and funds received pursuant to section  
36 3174-R. The department shall pursue this waiver in the manner  
most likely to receive federal approval, including packaging this  
38 request in a larger waiver request with other Medicaid  
initiatives for which the department must seek a waiver of any  
40 type or another form of approval from the federal Health Care  
Financing Administration. The waiver request required by this  
42 subsection must be submitted to the federal Health Care Financing  
Administration no later than January 1, 1999. The department  
44 shall report its progress in obtaining the waiver to the Joint  
Standing Committee on Appropriations and Financial Affairs and  
46 the Joint Standing Committee on Health and Human Services no  
later than October 1, 1998. The department shall submit  
48 legislation to provide coverage under this section prior to  
providing such coverage.

Sec. 5. 22 MRSA §3174-R is enacted to read:

§3174-R. Medicaid drug rebate program

The department shall enter into a rebate agreement with each manufacturer of prescription drugs under the Medicaid program in accordance with Section 1927 of the Social Security Act. These agreements must be consistent with the requirements of federal law and must provide for rebates that result in a total rebate amount that is at least 6 percentage points higher than the percentage of the total Medicaid drug expenditures that the rebate otherwise would be under Section 1927 of the Social Security Act. Any increase in revenue from the Medicaid drug rebate program over accepted estimates as of the effective date of this section that results in a higher percentage of total Medicaid drug rebates must be reserved to provide coverage pursuant to section 3174-G, subsection 1-A.

Sec. 6. 36 MRSA §6162-A, sub-§2, as amended by PL 1995, c. 368, Pt. CCC, §6 and affected by §11, is further amended to read:

2. **Income.** Eligibility for this program is determined by the same income levels as eligibility for elderly households is determined under chapter 907, except that individuals are also eligible for this program if the household spends at least 40% of its income on unreimbursed direct medical expenses for prescription drugs and the household income is not more than 25% higher than the levels specified in chapter 907. For the purposes of this subsection, the costs of drugs provided to a household under this chapter is considered a cost spent by the household for eligibility determination purposes.

**Sec. 7. Rules.** The Department of Human Services shall adopt rules that specify which drugs, medications and medical supplies will be added to those currently provided under the elderly low-cost drug program, pursuant to the Maine Revised Statutes, Title 22, section 254, utilizing funds appropriated in section 8 of this Act.

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 8. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1998-99

HUMAN SERVICES, DEPARTMENT OF

R. 46.

**Low Cost Drugs for Maine's Elderly**

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All Other \$2,000,000

Provides funds to cover the costs of expanding the number of drugs covered by the elderly low-cost drug program.'

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

**1998-99**

**APPROPRIATIONS/ALLOCATIONS**

General Fund \$2,000,000

This bill provides a \$2,000,000 General Fund appropriation to the Department of Human Services in fiscal year 1998-99 to add additional prescription drugs to those currently covered under the elderly low-cost drug program. The department is directed to adopt rules that specify which medications will be added.

This bill also directs the department to seek a Medicaid waiver to provide a prescription drug benefit to individuals 62 years of age or older and to seek approval to increase the Medicaid drug rebate by at least 6 percentage points. Any increase in the amount rebated over current budgeted amounts must be reserved to be available for the Medicaid prescription drug program, if the required Medicaid waiver is approved.

The additional costs associated with providing elderly low-cost drug program information and submitting the waiver can be absorbed by the department utilizing existing budgeted resources.'

**SUMMARY**

This amendment replaces the bill. It provides the Department of Human Services with a \$2,000,000 appropriation to include additional medications to be determined by the department to the elderly low-cost drug program. It directs the department to pursue a Medicaid waiver to provide Medicaid prescription drug benefits.