

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 143

H.P. 112

House of Representatives, January 11, 1999

An Act to Reduce Prescription Drug Costs and Increase Coverage.

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TWOMEY of Biddeford.

Cosponsored by Representatives: FULLER of Manchester, GAGNE of Buckfield, GERRY of Auburn, JACOBS of Turner, McGLOCKLIN of Embden, NORBERT of Portland, QUINT of Portland, SULLIVAN of Biddeford.

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

2 Sec. 1. 5 MRSA §12004-I, sub-§49-C is enacted to read:

4 **49-C.** Prescription Expenses 22 MRSA
6 Human Drug Program Only §263
 Services Advisory
8 Committee

10 Sec. 2. 22 MRSA c. 101-A is enacted to read:

12 CHAPTER 101-A

14 PRESCRIPTION DRUG PURCHASING CONSORTIUM AND
16 PRESCRIPTION DRUG PROGRAM

18 §261. Prescription drug purchasing consortium; prescription drug
 distribution program

20 The department shall form or enter into a prescription drug
22 purchasing consortium, referred to in this chapter as the
 "consortium," to enable the department to obtain prescription
24 drugs at the most favorable and competitive prices available from
 the manufacturers of prescription drugs. The department shall
26 establish the Prescription Drug Distribution Program, referred to
 in this chapter as the "program," to provide for the sale of the
 drugs to consumers.

28 1. Purchase of prescription drugs. The department shall
30 utilize the consortium to purchase prescription drugs and make
 them available to consumers, to the extent allowed by the funds
32 appropriated to the program, at the lowest possible cost through
 the program.

34 2. Sale of prescription drugs. The department shall
36 contract with cooperating pharmacies and hospitals to sell
 prescription drugs to consumers at prices to be set by rule
38 adopted by the department at levels appropriate to ensure an
 adequate profit for the pharmacies and hospitals and the lowest
40 reasonable prices to the consumers.

42 3. Consumers. The following residents of the State,
44 referred to in this chapter as "consumers," qualify to receive
 prescription drugs from the department under this chapter:

46 A. Residents whose incomes are at or below 400% of the
 nonfarm income official poverty line, as defined by the
48 federal Office of Management and Budget and revised annually
 in accordance with the United State Omnibus Budget
50 Reconciliation Act of 1981, Section 673, Subsection 2; and

2 B. Residents whose incomes are above the level in paragraph
4 A but who spend 3% or more of their gross incomes on
6 prescription drugs so that their incomes are below 400% of
8 the nonfarm income official poverty line when the expenses
10 are deducted from gross income.

12 4. Pharmaceutical services. The department shall enter
14 into agreements with pharmacists for the provision of the
16 following services to further the purposes of this chapter:

18 A. Drug use review;

20 B. Management of drug therapy;

22 C. Case management of consumers identified as at high risk
24 of medication-related problems; and

26 D. Management of consumer compliance.

28 5. Rebates. The department shall negotiate with
30 pharmaceutical manufacturers for the payment of rebates by the
32 manufacturers. Manufacturers are ineligible for participation in
34 the program if they have not reached rebate agreements with the
36 department.

38 6. Evaluation. The department shall undertake an annual
40 evaluation of the program and the department's participation in
42 the consortium, which may be contracted out to a nonprofit
44 organization. The annual evaluation must include any drug
46 formulary adopted by the department, drug efficacy, prescription
48 size, consumer satisfaction and consumer demand for prescription
50 drugs not covered by the program. The annual evaluation must be
52 distributed to the Prescription Drug Advisory Committee as
established in section 263, and to the public by January 1, 2000
and each year thereafter.

7. Rulemaking. The department shall adopt rules to
implement this chapter. Rules adopted under this chapter are
major substantive rules as defined by Title 5, chapter 375,
subchapter II-A.

§262. Prescription Drug Dedicated Fund

The Prescription Drug Dedicated Fund, referred to in this
chapter as the "fund," is established to fund the program.
Rebates received from prescription drug manufacturers pursuant to
this chapter must be deposited in the fund. Participating
pharmacies and hospitals shall deposit in the fund payments for
prescription drugs received from consumers, minus the service fee
that may be retained by the pharmacies and hospitals pursuant to
rule adopted by the department. The fund may also receive any
payments due from 3rd-party payors in payment for prescription

2 drugs. The fund is a special, dedicated, nonlapsing fund and any
3 interest generated by the fund is credited to the fund. The
4 department shall administer the fund.

6 **§263. Prescription Drug Program Advisory Committee**

8 The commissioner shall appoint 11 persons to the
9 Prescription Drug Program Advisory Committee, referred to in this
10 chapter as the "committee," to oversee the operation of the
11 program. The members of the committee must represent consumers,
12 pharmacies and hospitals, health coverage administered by the
13 State and pharmacists. The committee shall elect a chair and
14 vice-chair annually. The committee shall meet at least quarterly
15 and may meet more often if the commissioner or 4 of the members
16 determine a meeting should be called. The members of the
17 committee serve without compensation or reimbursement. The
18 department shall provide staff to the committee as required for
19 the performance of its duties. By February 1, 2000 and annually
20 thereafter, the committee shall report to the joint standing
21 committees of the Legislature having jurisdiction over health and
22 human services matters and appropriations and financial affairs
23 on the operation of the program and the cost savings to consumers
24 and to any department of State Government. The report must
25 include any recommendations for legislation or rulemaking.

26
27 **SUMMARY**

28
29 This bill establishes a prescription drug purchasing
30 consortium and the Prescription Drug Distribution Program to
31 enable the Department of Human Services to purchase drugs at
32 favorable prices and make them available to consumers with
33 incomes at or below 400% of the federal nonfarm income official
34 poverty line. The bill includes a dedicated fund into which are
35 placed the revenues from rebates and consumer purchases. The
36 program is overseen by an advisory committee that reports
37 annually to the joint standing committees of the Legislature
38 having jurisdiction over health and human services matters and
39 appropriations and financial affairs.
40