

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1809

H.P. 1255

House of Representatives, March 10, 1999

An Act to Increase Access to Cub Care for Children.

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 KANE of Saco.
Cosponsored by Senator LONGLEY of Waldo and
Representatives: BRENNAN of Portland, GAGNON of Waterville, QUINT of Portland,
TESSIER of Fairfield, TOWNSEND of Portland, Senator: MITCHELL of Penobscot.

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

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3 **Sec. 1. 22 MRSA §3174-T, sub-§2, ¶A,** as reallocated by RR
4 1997, c. 2, §46, is amended to read:

6 A. The maximum eligibility level, subject to adjustment by
7 the commissioner under paragraph B, is ~~185%~~ 200% of the
8 nonfarm income official poverty line.

10 **Sec. 2. 22 MRSA §3174-T, sub-§11** is enacted to read:

12 11. Drug rebate program. Effective October 1, 1999,
13 payment must be denied for drugs from pharmaceutical
14 manufacturers that do not enter into a rebate agreement with the
15 department for prescription drugs included in the list of
16 approved drugs under this program. Each agreement must provide
17 that the pharmaceutical manufacturer make rebate payments to the
18 department according to the following schedule.

20 A. For the quarters beginning October 1, 1999, the rebate
21 percentage is equal to the percentage recommended by the
22 federal Health Care Financing Administration of the
23 manufacturer's wholesale price for the total number of
24 dosage units of each form and strength of a prescription
25 drug for which providers of prescription drugs have been
26 reimbursed by the department as recorded in a department
27 report available to any interested party, provided payments
28 are not due until 30 days following the manufacturer's
29 receipt of utilization data supplied by the department,
30 including the number of dosage units for which providers of
31 prescription drugs are reimbursed during the period for
32 which payments are due.

34 B. Beginning October 1, 2000, the department shall seek to
35 achieve an aggregate rebate amount from all rebate
36 agreements that is 6 percentage points higher than that
37 required by paragraph A of this subsection, provided such
38 rebates result in a net increase in the rebate revenue
39 available to the Cub Care program. In the event the
40 department is not able to achieve the rebate amount required
41 by this paragraph without compromising the best interest of
42 recipients of the Cub Care program, it shall report to the
43 joint standing committees of the Legislature having
44 jurisdiction over health and human services matters and over
45 appropriations and financial affairs in the First Regular
46 Session of the 120th Legislature.

48 Upon receipt of data from the department, the pharmaceutical
49 manufacturer shall calculate the quarterly rebate payment. If a
50 discrepancy is discovered, the department may, at its expense,

2 hire a mutually agreed-upon independent auditor to verify the
3 pharmaceutical manufacturer's calculation. If a discrepancy is
4 still found, the pharmaceutical manufacturer shall justify its
5 calculation or make payment to the department for any additional
6 amount due. The pharmaceutical manufacturer may, at its expense,
7 hire a mutually agreed-upon independent auditor to verify the
8 accuracy of the utilization data provided by the department. If
9 a discrepancy is discovered, the department shall justify its
10 data or refund any excess payment to the pharmaceutical
11 manufacturer.

12 If a dispute over the rebate amount is not resolved, a request
13 for a hearing, along with supporting documentation, must be
14 submitted to the Office of Administrative Hearings. Failure to
15 resolve the dispute may be cause for terminating the drug rebate
16 agreement and denying payment to the pharmaceutical manufacturer
17 for any drugs.

18 All prescription drugs of a pharmaceutical manufacturer who
19 enters into an agreement pursuant to this subsection that appear
20 on the approved list of drugs must be immediately available and
21 the cost of the drugs must be reimbursed and is not subject to
22 any restrictions or prior authorization requirements. Any
23 prescription drug of a pharmaceutical manufacturer who does not
24 enter into an agreement is not reimbursable unless the department
25 determines the prescription drug is essential.

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SUMMARY

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31 This bill raises the maximum eligibility level to 200% of
32 the federal poverty line in order to provide Cub Care program
33 benefits to those children whose families fall within this
34 eligibility level. This bill also establishes a drug rebate
35 program within the Cub Care program similar to the elderly
36 low-cost drug program.