

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2082

S.P. 732

In Senate, March 30, 1999

An Act to Reduce the Cost of Prescription Drugs to Residents of the State.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PARADIS of Aroostook. (GOVERNOR'S BILL).
Cosponsored by Representative LOVETT of Scarborough and
Senators: BENOIT of Franklin, BERUBE of Androscoggin, Representatives: BRAGDON of
Bangor, FULLER of Manchester, KANE of Saco, KNEELAND of Easton, QUINT of
Portland, TWOMEY of Biddeford.

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

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Sec. 1. 22 MRSA §254-B is enacted to read:

§254-B. Maine resident low-cost prescription drug program

The department shall conduct a program to provide low-cost prescription drugs to residents of this State.

1. Agreement. A drug manufacturer who sells prescription drugs in this State may enter into a rebate agreement with the department; the agreement must be modeled after Section 1927 of the United States Social Security Act and include the requirement that the manufacturer make rebate payments to the State each calendar quarter or according to a schedule established by the department.

2. Rebate amount. The rebate amount required from a manufacturer to the State is equivalent to the rebate amount calculated under the Medicaid Rebate Program pursuant to 42 United States Code, Section 1396r-8.

3. Discount to residents of the State. Any retail pharmacy in the State that sells drugs covered by an agreement pursuant to subsection 1 shall discount the retail price of those drugs sold to residents of the State by the rebate amount pursuant to subsection 2, less the administrative costs of the program pursuant to subsection 6.

4. Operation of program. Retail pharmacies in the State shall submit claims to the department to verify the amount of discount due the resident. The pharmacies shall charge residents of the State the current retail price charged by each pharmacy for that prescription drug to persons purchasing that drug who are not covered by insurance or 3rd-party payor plans, less the discount amount, pursuant to subsection 3.

The amount of the discount must be indicated on the resident's receipt. On a weekly or biweekly basis, the pharmacy must be reimbursed by the department for drug discounts provided to residents of the State. The department shall collect the necessary utilization data from the pharmacies submitting claims in order to comply with 42 United States Code, Section 1396r-8.

5. Discrepancies in rebate amounts. Discrepancies in rebate amounts must be resolved using the process established in this subsection.

A. If there is a discrepancy in the manufacturer's favor between the amount claimed by a pharmacy or other business licensed to dispense prescription drugs in this State and

2 the amount rebated by the manufacturer, the department, at
3 the department's expense, may hire a mutually agreed-upon
4 independent auditor. Following the audit, if a discrepancy
5 still exists, the manufacturer shall justify the reason for
6 the discrepancy or make payment to the department for any
7 additional amount due.

8 B. If there is a discrepancy against the interest of the
9 manufacturer in the information provided by the department
10 to the manufacturer pursuant to subsection 3, paragraph A,
11 the manufacturer, at the manufacturer's expense, may hire a
12 mutually agreed-upon independent auditor to verify the
13 accuracy of the data supplied to the department. Following
14 the audit, if a discrepancy still exists, the department
15 shall justify the reason for the discrepancy or refund to
16 the manufacturer any excess payment made by the manufacturer.

17 C. Following the procedures established in paragraph A or
18 B, either the department or the manufacturer may request a
19 hearing before the Administrative Hearings Unit. Supporting
20 documentation must accompany the request for a hearing.

21 6. Administrative costs for program. Administrative costs
22 for the program must be funded solely from the rebates received
23 from the pharmaceutical manufacturers. The department may not
24 spend more for the administrative costs of this program than it
25 spends on the elderly low-cost drug program.

26 7. Obligation of retail pharmacies in State. The
27 obligation of retail pharmacies in the State to discount drugs to
28 residents of the State does not begin until 3 months after the
29 drug manufacturer begins to pay the rebate to the department.

30 8. Annual summary report. The department shall report the
31 status of the program to the Legislature on an annual basis.

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38 **SUMMARY**

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40 This bill establishes a program to provide low-cost
41 prescription drugs to Maine residents by giving prescription drug
42 manufacturers the option of entering into a voluntary drug rebate
43 agreement. The program is modeled after the rebate agreement
44 used in the State's Medicaid and elderly low-cost drug programs.
45 The rebate amount must be applied to the cost of the prescription
46 drugs purchased by residents of the State.