

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1542

S.P. 478

In Senate, March 8, 2001

An Act to Create the Prescription Assistance Program.

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 SMALL of Sagadahoc.
Cosponsored by Representative PEAVEY of Woolwich and
President Pro Tem BENNETT of Oxford, Senators: DAVIS of Piscataquis, TURNER of
Cumberland, Representatives: ROSEN of Bucksport, SNOWE-MELLO of Poland.

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

Sec. 1. 22 MRSA c. 101-A is enacted to read:

CHAPTER 101-A

PRESCRIPTION ASSISTANCE PROGRAM

§261. Prescription assistance program

There is established the prescription assistance program, referred to in this section as the "program," to provide lower cost prescription drugs to residents of the State of all ages who have unusually high prescription drug costs.

1. Eligibility. A person who resides in this State whose family income is below 300% of the nonfarm income official poverty line is eligible for enrollment in the program, except that persons enrolled in the Medicaid program are ineligible for enrollment. For the purposes of this section, "nonfarm income official poverty line" means that poverty line applicable to a single person as defined by the federal Department of Health and Human Services and updated annually in the Federal Register under authority of 42 United States Code, Section 9901(02). Eligibility must be determined by the Department of Administrative and Financial Services, Bureau of Revenue Services.

2. Enrollment. A person who resides in this State may apply for enrollment as an individual for a 12-month enrollment period as follows:

A. At any time during the first 12 months of the program;

B. At the time the person applies for the Maine Residents Property Tax Program under Title 36, chapter 907;

C. Within 60 days of becoming ineligible for health insurance or for coverage under a public or private health coverage benefits program; or

D. During the annual open enrollment period designated by the department.

3. Qualifying amount. After payment by the enrollee of \$1,000 for qualifying drugs during the enrollment period, which amount is the "qualifying amount," the enrollee is eligible for program benefits.

2 A. Payments made on behalf of a minor child toward the
qualifying amount must be considered as if they were
4 payments made by the child.

6 B. Prescription drugs and medicines that are not designated
for benefits under the program, nonprescription drugs and
8 medicines and other health products are not qualifying
prescription drugs and do not count toward expenditure of
10 the qualifying amount. Premiums paid for coverage under a
12 health, medical or prescription drug program, insurance or
benefit do not count toward expenditure of the qualifying
amount.

14 4. Program benefits; copayments. Program benefits apply to
all prescription drugs and medications provided under the
16 Medicaid program, referred to in this subsection as "drugs,"
subject to adjustment by the department pursuant to subsection
18 8. The following provisions apply to benefits under the program.

20 A. The program benefit pays the cost of drugs in excess of
22 the copayment of 20% paid by the enrollee.

24 B. The program must allow prescriptions for a 15-day time
period on newly issued drugs for chronic conditions or
26 diseases.

28 C. The program must encourage for prescription drugs to be
filled for 90-day time periods, subject to a maximum
30 copayment of twice the amount applicable to a 30-day
prescription.

32 5. Program terms. The terms of this subsection apply to
34 the program.

36 A. The department shall designate some prescription drugs
and medicines as generic drugs. In making a designation
38 under this paragraph, the department shall conduct a
cost-benefit analysis and shall consider the most current
40 medical and pharmacological information and research. When
a generic drug is available that is the pharmacological
42 equivalent of a brand name drug, the terms of the program
must require the purchase of a generic drug in substitution
44 for a prescribed brand name drug or must limit program
benefits to the amount of benefit for the generic drug.

46 B. The terms of the program must deny program benefits for
a prescribed drug for which there is an over-the-counter
48 pharmacological equivalent.

50 C. The terms of the program must designate the program as
the payor of last resort, requiring payment from private

2 insurance and health maintenance organizations and from
3 other sources, private and public, prior to payment from the
4 program to the extent allowable by law.

6 6. Program coordination. The commissioner shall administer
7 this program in coordination with the elderly low-cost drug
8 program under section 254, Medicaid prescription drug waiver
9 program and any other program providing prescription drug
10 benefits in order to maximize federal funding, increase program
11 benefits and decrease total administrative expenses and the
12 prices paid for prescription drugs by residents of this State.

14 7. Contracts. The department may enter into contracts for
15 the administration of the program or any of its necessary
16 functions, including, but not limited to, mail order service for
17 maintenance prescriptions and the use of a pharmaceutical
18 benefits manager. A pharmaceutical manufacturer, wholesaler or
19 distributor is disqualified from entering into a contract for
20 pharmaceutical benefits management services under the program.

22 8. Limitation. The program must operate within the
23 constraints of the funding appropriated and allocated for its
24 operation. On a quarterly basis the commissioner shall review
25 the operation and fiscal status of the program. If the
26 commissioner determines that the program can not operate within
27 its fiscal limits, the commissioner shall take action to bring
28 the program within its budget, including increasing income
29 eligibility requirements or increasing copayments.

30 9. Rulemaking. The department shall adopt rules to
31 implement the program. Rules adopted pursuant to this section
32 are routine technical rules as defined by Title 5, chapter 375,
33 subchapter II-A.

36 SUMMARY

38 This bill establishes the prescription assistance program to
39 provide help to residents of this State of all ages who have
40 unusually high prescription drug costs whose family incomes are
41 below 300% of the nonfarm income official poverty line. The
42 program will require enrollees to pay the first \$1,000 of
43 prescription drug expenses. After paying that amount, the
44 enrollee will receive program benefits that pay 80% of the cost
45 of the drugs. The enrollee pays 20%. The program will encourage
46 the use of generic drugs and will not pay benefits toward
47 prescribed drugs for which there is an over-the-counter
48 pharmacological equivalent. The program must be administered in
49 coordination with the elderly low-cost drug program and the
50 Medicaid program. In administering the program, the Department

2 of Human Services may enter into contracts, may use mail order
service and may use a pharmaceutical benefits manager. The
4 program must operate within its budget and the Commissioner of
Human Services may alter program terms to do so. The Department
6 of Human Services is required to adopt rules to implement the
program.