

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1790

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H.P. 1334

House of Representatives, May 3, 2001

**An Act to Create the Healthy Maine Prescription Program.**

(EMERGENCY)

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

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Speaker SAXL of Portland. (GOVERNOR'S BILL)  
Cosponsored by President MICHAUD of Penobscot and  
Representatives: BERRY of Livermore, KANE of Saco, NUTTING of Oakland, Senators:  
President Pro Tem BENNETT of Oxford, GOLDTHWAIT of Hancock, LONGLEY of  
Waldo, NUTTING of Androscoggin, SHOREY of Washington.

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4           Whereas, the low-income citizens of the State are facing a  
6 lack of needed prescription drug services due to the high cost of  
such services; and

8           Whereas, the lack of such services poses a health threat to  
10 these citizens; and

12           Whereas, in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
14 Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
16 safety; now, therefore,

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

20           **Sec. 1. 22 MRSA §254, first ¶,** as amended by PL 1999, c. 401,  
Pt. KKK, §1 and affected by §10 and c. 531, Pt. F, §2, is further  
22 amended to read:

24           The As part of the Healthy Maine Prescription Program  
established under section 258, the Department of Human Services  
26 may conduct a program, referred to in this section as the  
"program," to provide low-cost prescription and nonprescription  
28 drugs, medication and medical supplies to disadvantaged, elderly  
and disabled individuals.

30           **Sec. 2. 22 MRSA §254, sub-§4,** as amended by PL 1993, c. 410,  
32 Pt. I, §4, is further amended to read:

34           **4. Method of prescribing or ordering drugs.** The method of  
prescribing or ordering ~~these~~ the drugs under subsection 1, which  
36 may include, but is not limited to, the use of standard or larger  
prescription refill sizes so as to minimize operational costs and  
38 to maximize economy. Unless the prescribing physician indicates  
otherwise, the use of generic or chemically equivalent drugs is  
40 required, provided that these drugs are of the same quality and  
have the same mode of delivery as is provided to the general  
42 public, consistent with good pharmaceutical practice. ~~Each~~  
~~prescription-filled must be for a supply of 90 days unless the~~  
44 ~~prescribing physician or the recipient requests otherwise;~~

46           **Sec. 3. 22 MRSA §254, sub-§4-A,** as amended by PL 1999, c. 731,  
Pt. TT, §7, is further amended to read:

48           **4-A. Payment for drugs provided.** The commissioner may  
50 establish the amount of payment to be made by recipients toward

2 the cost of prescription or nonprescription drugs, medication and  
3 medical supplies furnished under this program provided that, for  
4 persons at or below 185% of the federal poverty line, the total  
5 cost for any covered purchase of a prescription or  
6 nonprescription drug or medication provided under the basic  
7 component of the program or the total cost of any covered  
8 purchase of a generic prescription drug or medication under the  
9 supplemental component of the program does not exceed 20% of the  
10 price allowed for that prescription under program rules or \$2,  
11 whichever is greater. For the supplemental component of the  
12 program except as otherwise provided in this subsection, the  
13 total cost paid by the individual for any covered purchase of a  
14 prescription drug or medication may not exceed the cost of the  
15 program for that drug or medication minus the \$2 paid by the  
16 program. The commissioner shall establish annual limits on the  
17 costs incurred by eligible household members for covered  
18 prescriptions or nonprescription drugs or medications covered  
19 under the program on or prior to May 31, 2001, after which the  
20 program must pay 80% of the cost of all prescriptions or  
21 nonprescription drugs or medications covered by the supplemental  
22 component of the program on May 31, 2001. The limits must be set  
23 by the commissioner by rule as necessary to operate the program  
24 within the program budget;

25 **Sec. 4. 22 MRSA §254, sub-§4-C** is enacted to read:

26 **4-C. Appeals.** The eligibility determination made by the  
27 department based on information provided by the State Tax  
28 Assessor pursuant to Title 36, section 6162-B is final, subject  
29 to appeal in accordance with the appeal process established in  
30 the Medicaid program;

31 **Sec. 5. 22 MRSA §258** is enacted to read:

32 **§258. Healthy Maine Prescription Program**

33 **1. Definitions.** As used in this section, unless the  
34 context otherwise indicates, the following terms have the  
35 following meanings.

36 **A. "Elderly low-cost drug program"** means the program  
37 established as part of the Healthy Maine Prescription  
38 Program pursuant to section 254.

39 **B. "Prescription program"** means the Healthy Maine  
40 Prescription Program established in this section.

41 **2. Program established.** The Healthy Maine Prescription  
42 Program is established as the Medicaid prescription drug discount  
43 program authorized pursuant to 42 United States Code, Section  
44 1396p-11.

1315, as amended, and the waiver project authorized under that section.

**3. Administration; components.** The department shall administer the prescription program. The elderly low-cost drug program is a component of the prescription program.

**4. Benefit eligibility.** Benefits are subject to the following provisions.

A. An individual enrolled in both the elderly low-cost drug program and the prescription program is eligible for the more generous discount authorized under either program in the event overlapping benefits exist.

B. If a drug rebate is paid for any prescription under the prescription program, a rebate is not due under the elderly low-cost drug program.

C. The department shall issue a single certificate for eligibility to an individual who is eligible for both the benefit under the elderly low-cost drug program and the benefit under the prescription program.

**5. Copayments.** Notwithstanding section 3173-C, a beneficiary of the prescription program shall make the copayments authorized under the prescription program and the elderly low-cost drug program.

**6. Report.** On or before January 15th each year, the department shall report to the Legislature on the prescription program.

**7. Rules.** The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 6. 36 MRSA §191, sub-§2, ¶X,** as amended by PL 1999, c. 708, §15, is further amended to read:

X. The disclosure to the Department of Human Services, ~~Bureau of Medical Services~~ of information relating to the administration of the elderly low-cost low-cost drug program and the Healthy Maine Prescription Program established under Title 22, section 258; and

**Sec. 7. 36 MRSA § 6162-B, sub-§2,** as amended by PL 1999, c. 707, §2, is further amended to read:

2           **2. Limitation.** An individual does not qualify under this  
 2 program if that individual receives state supplemental income  
 4 benefits or full Medicaid pharmaceutical benefits.

6           **Sec. 8. 36 MRSA §6162-B, sub-§3,** as enacted by PL 1999, c.  
 6 401, Pt. KKK, §5 and affected §10 and c. 531. Pt. F, §2, is  
 8 repealed.

10           **Sec. 9. Emergency rule-making authority.** The Department of  
 10 Human Services shall engage in emergency rulemaking under the  
 12 Maine Administrative Procedure Act in order to implement the  
 12 Healthy Maine Prescription Program authorized in this Act on or  
 14 before July 1, 2001.

16           **Sec. 10. Allocation.** The following funds are allocated from  
 16 Other Special Revenue funds to carry out the purposes of this Act.

	<b>2001-02</b>	<b>2002-03</b>
<b>20 HUMAN SERVICES, DEPARTMENT OF</b>		
<b>22 Bureau of Family Independence -</b>		
<b>24 Regional</b>		
Positions	(4.000)	(4.000)
Personal Services	\$141,061	\$146,703
All Other	163,485	163,485
<b>TOTAL</b>	\$304,546	\$310,188

30 Provides for the allocation  
 32 of federal matching funds for  
 34 the establishment of 2 Clerk  
 34 Typist II positions and 2  
 36 Eligibility Specialist  
 36 positions for the Healthy  
 38 Maine Prescription Program.

**40 Bureau of Medical Services**

Positions	(6.000)	(6.000)
Personal Services	\$200,198	\$209,306
All Other	393,738	425,954
<b>TOTAL</b>	\$593,936	\$635,260

48 Provides for the allocation  
 of funds for the

2 establishment of 4 Clerk  
 3 Typist III positions; one  
 4 Medical Care Coordinator  
 5 position; and one Social  
 6 Services Program Manager  
 7 position for the Healthy  
 8 Maine Prescription Program.

9 **Medical Care - Payments to Providers**

10	All Other	\$2,675,272	\$4,613,243
11		<hr/>	<hr/>
12	TOTAL	\$2,675,272	\$4,613,243

13 Provides for the allocation  
 14 of funds for payments to  
 15 pharmacy providers under the  
 16 Healthy Maine Prescription  
 17 Program.

18	<b>HUMAN SERVICES, DEPARTMENT OF</b>		
19	<b>TOTAL</b>	<hr/>	<hr/>
20		\$3,573,754	\$5,558,691

21 **Sec. 11. Allocation.** The following funds are allocated from  
 22 Federal Expenditures Funds to carry out the purposes of this Act.

23

	<b>2001-02</b>	<b>2002-03</b>
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24 **HUMAN SERVICES, DEPARTMENT OF**

25 **Bureau of Family Independence -**  
 26 **Regional**

27	Positions	(4,000)	(4,000)
28	Personal Services	\$141,061	\$146,703
29	All Other	163,485	163,485
30		<hr/>	<hr/>
31	TOTAL	\$304,546	\$310,188

32 Provides for the allocation  
 33 of federal matching funds for  
 34 the establishment of 2 Clerk  
 35 Typist II positions and 2  
 36 Eligibility Specialist  
 37 positions for the Healthy  
 38 Maine Prescription Program.

39 **Bureau of Medical Services**

2	Positions	(5.000)	(5.000)
	Personal Services	\$200,198	\$209,306
	All Other	811,213	907,862
4			
	TOTAL	<u>\$1,011,411</u>	<u>\$1,117,168</u>

6  
8 Provides for the allocation  
of federal matching funds for  
10 the establishment of one  
Medical Care Coordinator  
12 position; 2 Provider  
Relations Specialist  
14 positions; one Financial  
Analyst position; and one  
16 Social Services Program  
Specialist II position for  
18 the Healthy Maine  
Prescription Program.

**20 Medical Care - Payments to  
22 Providers**

22	All Other	\$5,302,280	\$9,190,597
24			
	TOTAL	<u>\$5,302,280</u>	<u>\$9,190,597</u>

26  
28 Provides for the allocation  
of federal matching funds for  
30 payments to pharmacy  
providers under the Healthy  
32 Maine Prescription Program.

<b>34</b>	<b>DEPARTMENT OF HUMAN SERVICES</b>		
	<b>TOTAL</b>	<u>\$6,618,237</u>	<u>\$10,617,953</u>

36 **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.  
38

**40 SUMMARY**

42 This bill requires the Department of Human Services to  
44 implement the Healthy Maine Prescription Program as the Medicaid  
prescription drug discount program authorized by federal law.  
The elderly low-cost drug program is made part of the Healthy  
46 Maine Prescription Program.