

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2002

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Legislative Document

No. 2113

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S.P. 777

In Senate, February 19, 2002

**An Act to Improve Access to Prescription Drugs for the Elderly.**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

A handwritten signature in cursive script that reads "Pamela L. Cahill".

PAMELA L. CAHILL  
Secretary of the Senate

Presented by Senator TREAT of Kennebec.

Cosponsored by Representative LEMOINE of Old Orchard Beach and

Senators: BROMLEY of Cumberland, DOUGLASS of Androscoggin, GAGNON of Kennebec, LONGLEY of Waldo, SMALL of Sagadahoc, Representatives: BROOKS of Winterport, FISHER of Brewer, KANE of Saco.

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

2           **Sec. 1. 22 MRSA §3174-G, sub-§1-A**, as amended by PL 1999, c.  
4           790, Pt. A, §25, is repealed.

6           **Sec. 2. 22 MRSA §3174-G, sub-§1-B**, as amended by PL 1999, c.  
8           731, Pt. KK, §1, is further amended to read:

10           **1-B. Funding.** State funds necessary to implement  
12           subsection ~~1-A~~ 1-C must include General Fund appropriations and  
14           Other Special Revenue allocations from the Fund for a Healthy  
16           Maine to the elderly low-cost drug program operated pursuant to  
            section 254, including rebates received in that program from  
            pharmaceutical manufacturers, that are no longer needed in that  
            program as a result of the Medicaid waiver obtained pursuant to  
            subsection ~~1-A~~ 1-C.

18           **Sec. 3. 22 MRSA §3174-G, sub-§1-C** is enacted to read:

20           **1-C. Elderly prescription drug program.** The department  
22           shall apply to the federal Centers for Medicare and Medicaid  
24           Services for a waiver or amend a pending or current waiver under  
26           the Medicaid program authorizing the department to use federal  
28           matching dollars to enhance the prescription drug benefits  
30           available to persons who qualify for the elderly low-cost drug  
32           program established under section 254 on the effective date of  
34           this subsection. If funds permit, the department has the  
36           authority to establish income eligibility levels for the elderly  
38           low-cost drug program for persons with income higher than the  
40           income eligibility level established in section 254, provided  
42           that the income eligibility limit does not exceed 200% of the  
44           federal nonfarm income official poverty level. To the extent  
46           reasonably achievable under the federal waiver process, the  
48           waiver must include the full range of prescription drugs provided  
            under the Medicaid program on the effective date of this  
            subsection and limit copayments and cost sharing for  
            participants. If the waiver is granted, the department is  
            authorized to use funds appropriated or allocated to provide  
            prescription drugs under the elderly low-cost drug program  
            established in section 254 or the Healthy Maine Prescription  
            Program established under section 258 to enhance prescription  
            drug coverage under this section. The department is also  
            authorized to amend the waiver or adjust program requirements as  
            necessary to take advantage of enhanced federal matching funds  
            that may become available. Coverage under a waiver under this  
            subsection must be no less beneficial to persons eligible for the  
            elderly low-cost drug program than the coverage available on  
            September 30, 2001 under the program.

2 If, upon thorough analysis, the department determines that a  
4 waiver under this subsection is not feasible or would not  
6 significantly benefit participants in the elderly low-cost drug  
8 program, the department may decide not to pursue it, but must,  
10 within 30 days of that decision and before taking action on that  
12 decision, report to the joint standing committee of the  
14 Legislature having jurisdiction over health and human services  
16 matters a detailed analysis of the reasons for reaching that  
18 decision.

20 **Sec. 4. 22 MRSA §3174-R**, as enacted by PL 1997, c. 643, Pt.  
22 RR, §5, is amended to read:

24 **§3174-R. Medicaid drug rebate program**

26 The department shall enter into a drug rebate agreement with  
28 each manufacturer of prescription drugs under the Medicaid  
30 program in accordance with Section 1927 of the federal Social  
32 Security Act, as long as the agreements are consistent with state  
34 and federal law, are approved by the federal Health Care Finance  
36 Administration and result in a net increase in rebate revenue  
38 available to the Maine Medicaid Program. Individual rebate  
40 agreements may vary. The department shall seek to achieve an  
aggregate rebate amount from all agreements that is at least 6  
percentage points higher than the percentage of the total  
Medicaid drug expenditures that the rebates would otherwise be  
under Section 1927 of the federal Social Security Act. Any  
increase in revenue from the Medicaid drug rebate program over  
accepted estimates as of the effective date of this section that  
results in a higher percentage of the total Medicaid drug rebates  
must be reserved to provide coverage pursuant to section 3174-G,  
subsection 1-A- 1-C. In the event that the department is not  
able to achieve the rebate amount required by this section  
without compromising the best interest of Medicaid recipients and  
the Medicaid drug rebate program, the department shall report to  
the joint standing committee of the Legislature having  
jurisdiction over health and human services matters and the joint  
standing committee of the Legislature having jurisdiction over  
appropriations and financial affairs in the next regular session  
of the 119th Legislature.

42 **Sec. 5. Report.** The Department of Human Services shall report  
44 to the joint standing committee of the Legislature having  
46 jurisdiction over health and human services matters regarding the  
status of the waiver request in the Maine Revised Statutes, Title  
22, section 3174-G, subsection 1-C on or before January 12, 2003.

## SUMMARY

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4       This bill requires the Department of Human Services to apply  
6       to the federal Centers for Medicare and Medicaid Services for a  
8       waiver or amend a pending or current waiver under the Medicaid  
10       program authorizing the department to use federal matching  
      dollars to enhance the prescription drug benefits available to  
      persons who currently qualify for the elderly low-cost drug  
      program.

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