

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 849

H.P. 626

House of Representatives, February 20, 2003

An Act To Ensure Fairness in Maine's Prescription Drug Laws

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CANAVAN of Waterville.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: CRAVEN of Lewiston, FLETCHER of Winslow, GERZOFSKY of
Brunswick, LAVERRIERE-BOUCHER of Biddeford, PINGREE of North Haven, SMITH of
Van Buren, SNOWE-MELLO of Poland, WALCOTT of Lewiston.

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

4 **Sec. 1. 22 MRSA §3174-M**, as renumbered by RR 1993, c. 1,
§53, is amended to read:

6 **§3174-M. Medicaid drug management programs**

8 **1. Authority.** The department has the authority to
10 determine which prescription and over-the-counter drugs are
12 subject to reimbursement and coverage under the Medicaid program
and to establish procedures for the use and management of those
drugs.

14 **2. Drug committee.** In order to make determinations under
16 subsection 1, the department shall establish a drug ~~formulary~~
committee by rule adopted pursuant to the Maine Administrative
18 Procedure Act. The department must receive approval from the
committee prior to establishing any limitations, prior
20 authorizations, preferred drug programs or other mechanisms to
monitor or restrict the manner in which physicians prescribe
drugs or Medicaid program recipients have access to drugs.

22 A. The drug ~~formulary~~ committee must have at least 2
24 nonvoting consumer members and 2 psychiatrist members, one
26 of whom must be a child psychiatrist and one of whom must be
an adult psychiatrist, to be appointed by the Medicaid
28 Advisory Committee established pursuant to 42 Code of
Federal Regulations, Section 431.12 (1993).

30 B. A vote of 2/3 of the drug ~~formulary~~ committee members
32 present is required to add or delete a drug from the list of
drugs that are subject to reimbursement and coverage under
34 the Medicaid program.

36 C. A determination under rules adopted pursuant to
subsection 3 that a drug or category of drug is not covered
38 by the Medicaid program is a final agency action subject to
review under the Maine Administrative Procedure Act.

40 **3. Procedures; emergency.** Drugs determined not covered by
42 Medicaid pursuant to this section are subject to review and
approval based upon a prior approval procedure established by
44 rule by the department. Prior approval must be given
retroactively if an emergency, as determined by a physician,
46 requires that the drug be dispensed immediately for the patient's
well-being. Any drug provided under this emergency procedure is
48 considered a Medicaid-covered service pending departmental action.

50 **4. Rulemaking.** Rules adopted pursuant to section 3174-J
prior to its repeal are effective as of the effective date of

2 this chapter without the taking of any action pursuant to the
Maine Administrative Procedure Act.

4

6 SUMMARY

6

8 This bill requires the Department of Human Services to
receive approval from the drug committee, established pursuant to
10 the Maine Revised Statutes, Title 22, section 3174-M, subsection
2, prior to establishing any mechanisms to monitor or restrict
12 the manner in which physicians prescribe drugs or Medicaid
program recipients have access to drugs. The bill also requires
14 that 2 members of the committee must be psychiatrists, one a
child psychiatrist and one an adult psychiatrist.