

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1747

H.P. 1269

House of Representatives, December 22, 2003

An Act To Amend the Medicaid Drug Rebate Program and the Elderly Low-cost Drug Program

Submitted by the Department of Human Services pursuant to Joint Rule 204.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CRAVEN of Lewiston.

Cosponsored by Representatives: EARLE of Damariscotta, SMITH of Monmouth, Senator: BRENNAN of Cumberland.

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

2
3 **Sec. 1. 22 MRSA §254, sub-§4-A**, as amended by PL 2003, c. 20,
4 Pt. GGG, §3, is further amended to read:

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

32 **Sec. 2. 22 MRSA §3174-R**, as enacted by PL 1997, c. 643, Pt.
33 RR, §5, is amended to read:

34 **§3174-R. Medicaid drug rebate program**

36 The department shall enter into a drug rebate agreement with
37 each manufacturer of prescription drugs under the Medicaid
38 program in accordance with Section 1927 of the federal Social
39 Security Act, as long as the agreements are consistent with state
40 and federal law, ~~are approved by the federal Health Care Finance~~
41 ~~Administration~~ and result in a net increase in rebate revenue
42 available to the Maine Medicaid Program. Individual rebate
43 agreements may vary. ~~The department shall seek to achieve an~~
44 ~~aggregate rebate amount from all agreements that is at least 6~~
45 ~~percentage points higher than the percentage of the total~~
46 ~~Medicaid drug expenditures that the rebates would otherwise be~~
47 ~~under Section 1927 of the federal Social Security Act. Any~~
48 ~~increase in revenue from the Medicaid drug rebate program over~~
49 ~~accepted estimates as of the effective date of this section that~~
50

2 results-in-a-higher-percentage-of-the-total-Medicaid-drug-rebates
must-be-reserved-to-provide-coverage-pursuant-to-section-3174-G,
4 subsection-1-A.--In-the-event-that-the-department-is-not-able-to
achieve--the--rebate--amount--required--by--this--section--without
6 compromising-the-best-interest-of-Medicaid-recipients-and-the
Medicaid-drug-rebate-program,-the-department-shall-report-to-the
8 joint-standing-committee-of-the-Legislature-having-jurisdiction
over-health-and-human-services-matters-and-the-joint-standing
10 committee---of---the---Legislature---having---jurisdiction---over
appropriations-and-financial-affairs-in-the-next-regular-session
of-the-119th-Legislature.

14 SUMMARY

16 This bill makes changes to the Medicaid drug rebate program
and to the elderly low-cost drug program to clarify the
18 out-of-pocket cost to participating members.