

# 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)



# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

---

Legislative Document

No. 1325

H.P. 924

House of Representatives, March 15, 2005

### **An Act To Ensure Continuity of Care Related to Implementation of the Federal Medicare Drug Benefit**

---

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative BRAUTIGAM of Falmouth.  
Cosponsored by Representatives: PERRY of Calais, SMITH of Monmouth, WEBSTER of  
Freeport, Senators: COWGER of Kennebec, MAYO of Sagadahoc.

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

4 **PART A**

6 **Sec. A-1. 22 MRSA §254, 3rd ¶**, as enacted by PL 2001, c. 691, §1 and affected by §6, is amended to read:

8 The commissioner shall make available suitable applications  
with instructions for applicants. By submitting an application  
10 or participating in a review to redetermine eligibility for  
12 benefits under this section, the applicant agrees that, if the  
14 applicant is determined eligible for benefits under this section,  
16 the department may provide assistance to the applicant in  
18 securing benefits under Medicare D and may serve as the  
20 authorized representative of the applicant for the purpose of  
22 enrollment in any Medicare D plan. The department may choose in  
which Medicare D plan, options or coverage to enroll the  
applicant and may choose to apply for any available subsidies on  
behalf of the applicant. The department shall adopt rules that  
describe the circumstances in which an applicant eligible for  
benefits under this section retains the right to enroll or make  
other choices in connection with Medicare D coverage.

24 **Sec. A-2. 22 MRSA §254, sub-§1-A, ¶B**, as enacted by PL 2001,  
c. 691, §1 and affected by §6, is amended to read:

26 B. An individual does not receive full MaineCare  
28 pharmaceutical benefits~~†~~.

30 **Sec. A-3. 22 MRSA §254, sub-§1-A, ¶¶C and D** are enacted to  
read:

32 C. Beginning January 1, 2006, an individual is not eligible  
34 for Medicare D benefits or the individual is eligible but  
36 Medicare D does not provide coverage for the drugs needed by  
the individual.

38 D. An individual is eligible for Mainecare and Medicare D.  
40 With regard to eligibility under this paragraph, an  
42 individual may receive only wrap services as provided in  
subsection 13 and rules adopted by the department;

44 **Sec. A-4. 22 MRSA §254, sub-§11-A**, as enacted by PL 2001, c.  
691, §1 and affected by §6, is amended to read:

46 **11-A. Retention of eligibility.** A person who was eligible  
48 for the program at any time from August 1, 1998 to July 31, 1999  
and who does not meet the requirements of subsection 10 retains  
50 eligibility for the program if that person is a member of a  
household of an eligible person; and

2           **Sec. A-5. 22 MRSA §254, sub-§12**, as enacted by PL 1999, c.  
3 731, Pt. TT, §10, is amended to read:

4  
5           **12. Funds not to lapse.** Funds appropriated from the  
6 General Fund to carry out the purpose of this section may not  
7 lapse but must carry from year to year.

8           **Sec. A-6. 22 MRSA §254, sub-§§13 to 15** are enacted to read:

9  
10           **13. Wrap services.** The department shall adopt rules  
11 governing wrap services to provide coverage under the program to  
12 individuals who are eligible for prescription drug benefits under  
13 both MaineCare and Medicare D. For the purposes of this  
14 subsection "wrap services" means coverage for certain  
15 prescription and nonprescription drugs that are needed by an  
16 individual and that are not available under MaineCare or Medicare  
17 D;

18  
19           **14. Continuity of care.** The department shall adopt rules  
20 governing continuity of care under the program to ensure that  
21 individuals who are eligible for prescription and nonprescription  
22 drug benefits under Medicare D and the program or under Medicare  
23 D, the program and MaineCare do not lose coverage for needed  
24 drugs at the beginning of coverage under Medicare D, as a result  
25 of the required copayment in Medicare D after the amount of  
26 initial coverage or by operation of law or regulation or rule  
27 applicable to the program, the MaineCare program or Medicare D;  
28 and

29  
30           **15. Education and outreach.** The department shall provide  
31 education and outreach services to applicants and individuals  
32 enrolled in the program to increase access to needed prescription  
33 and nonprescription drugs and fully use other private, state and  
34 federal programs.

35  
36           **Sec. A-7. 22 MRSA §254**, as amended by PL 2003, c. 611, §1 and  
37 c. 689, Pt. B, §6, is further amended by adding at the end a new  
38 paragraph to read:

39           Rules adopted pursuant to this section are routine technical  
40 rules as defined in Title 5, chapter 375, subchapter 2-A.

41  
42           **Sec. A-8. Transitional prescription and nonprescription drug**  
43 **benefits.** Beginning November 1, 2005, and continuing until such  
44 time as individuals who are enrolled in both the elderly low-cost  
45 drug program pursuant to the Maine Revised Statutes, Title 22,  
46 section 254, and Medicare D are able to obtain needed  
47 prescription and nonprescription drugs covered under Medicare D  
48 without undue hardship or until April 1, 2006, whichever occurs  
49  
50

2 first, the Department of Health and Human Services shall provide  
transitional prescription and nonprescription drug benefits under  
4 the elderly low-cost drug program to persons who are enrolled in  
the elderly low-cost drug program and who may be eligible for  
6 Medicare D or who are enrolled in Medicare D. Transitional  
prescription and nonprescription drug benefits under this section  
8 must include filling and refilling prescriptions for longer than  
the usual time periods, allowing the refilling of prescriptions  
10 prior to the usual date in order to provide continuity of care  
between programs and such other benefits as the department  
12 determines to be necessary to ensure that persons enrolled in the  
elderly low-cost drug program and Medicare D do not experience a  
14 lapse in coverage due to the transition to Medicare D.

16 **Sec. A-9. Retention of funding for state fiscal years 2004-05, 2005-06  
and 2006-07.** Notwithstanding any other provision of law, in order  
18 to ensure the continuity of care for Maine's elderly and disabled  
persons during the transition to drug benefits under Medicare D,  
20 funds allocated or appropriated to the elderly low-cost drug  
program under the Maine Revised Statutes, Title 22, section 254  
22 during state fiscal years 2004-05, 2005-06 and 2006-07 do not  
lapse and may be transferred to another account or used for  
24 another purpose only after a vote of deappropriation or  
deallocation by the Legislature.

26 **PART B**

28 **Sec. B-1. 22 MRSA §255-A** is enacted to read:

30 **§255-A. Coordination of prescription and nonprescription**  
32 **drug benefits**

34 Beginning November 1, 2005, the department shall coordinate  
36 the drug benefits of persons who are eligible for prescription  
and nonprescription drugs under any 2 of the drug benefit  
38 programs covered by this section in order to increase access to  
needed prescription and nonprescription drugs at affordable costs.

40 1. Definitions. As used in this section, unless the  
42 context otherwise indicates, the following terms have the  
following meanings.

44 A. "Drug benefit program" means Medicare D, the elderly  
low-cost drug program or MaineCare.

46 B. "Elderly low-cost drug program" means the elderly  
48 low-cost drug program under section 254.



2 shall amend the rules regarding the principles of reimbursement  
3 for nursing facilities to increase the amount that may be  
4 retained by a resident of a facility. The rules must allow the  
5 retention of \$40 per month plus the amount required to be paid by  
6 the resident for copayments for needed prescription and  
7 nonprescription drugs under the following drug programs, as  
8 applicable to the resident: the elderly low-cost drug program  
9 under the Maine Revised Statutes, Title 22, section 254,  
10 subsection 4-A, the MaineCare program pursuant to Title 22,  
11 chapter 855 and Medicare D under the federal Medicare  
12 Prescription Drug, Improvement, and Modernization Act of 2003.  
13 Rules adopted pursuant to this section are routine technical  
14 rules as defined in Title 5, chapter 375, subchapter 2-A.

15 **Sec. D-2. Rulemaking for residential care and assisted living**  
16 **services.** By January 1, 2006, the Department of Health and Human  
17 Services shall amend the rules regarding the principles of  
18 reimbursement for residential care and assisted living facilities  
19 to increase the amount that may be retained by a resident of a  
20 facility. The rules must allow the retention of the same amount  
21 per month that could be retained on July 1, 2005 plus the amount  
22 required to be paid by the resident for copayments for needed  
23 prescription and nonprescription drugs under the following drug  
24 programs, as applicable to the resident: the elderly low-cost  
25 drug program under the Maine Revised Statutes, Title 22, section  
26 254, subsection 4-A, the MaineCare program pursuant to Title 22,  
27 chapter 855 and Medicare D under the federal Medicare  
28 Prescription Drug, Improvement, and Modernization Act of 2003.  
29 Rules adopted pursuant to this section are routine technical  
30 rules as defined in Title 5, chapter 375, subchapter 2-A.

## 31 SUMMARY

32  
33  
34 This bill provides for continuity of care related to  
35 implementation of the Medicare D prescription drug benefit as  
36 follows.

37  
38  
39 1. The bill authorizes the Department of Health and Human  
40 Services to provide assistance to persons applying for and  
41 enrolled in the elderly low-cost drug program so that they may  
42 obtain benefits under Medicare D.

43  
44 2. The bill allows coverage under the elderly low-cost drug  
45 program for persons enrolled in Medicare D under certain  
46 circumstances.

47  
48 3. The bill provides for wrap services, continuity of care  
and education and outreach in the elderly low-cost drug program.

2           4. The bill directs the Department of Health and Human  
Services to adopt routine technical rules for the provisions of  
4 the bill in the elderly low-cost drug program.

6           5. The bill directs the Department of Health and Human  
Services to provide transitional prescription and nonprescription  
8 drug benefits under the elderly low-cost drug program for persons  
enrolled in the program who may be eligible for or are enrolled  
10 in Medicare D.

12           6. The bill retains funding appropriated in the elderly  
low-cost drug program for state fiscal years 2004-05, 2005-06 and  
14 2006-07.

16           7. The bill requires the Department of Health and Human  
Services to coordinate benefits among the elderly low-cost drug  
18 program, the MaineCare program and Medicare D in order to  
increase access to needed prescription and nonprescription drugs  
20 at affordable costs.

22           8. The bill directs the Department of Health and Human  
Services to amend the rules regarding the amount of income that  
24 may be retained by a resident of a nursing, residential care or  
assisted living facility to allow an increase to cover the cost  
26 of the person's copayment for needed prescription and  
nonprescription drugs under the elderly low-cost drug program,  
28 the MaineCare program and Medicare D.