

MAINE STATE LEGISLATURE

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INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE

SENATE

124TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 576, L.D. 1498, Bill, "An Act To Adopt a Drug Benefit Equity Law"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 24-A MRSA §4317 is enacted to read:

§4317. Pharmacy providers

1. Contracts with pharmacy providers. Notwithstanding section 2672, section 4307, subsection 3 and Title 32, chapter 117, subchapter 8, a carrier that provides coverage for prescription drugs as part of a health plan may not refuse to contract with a pharmacy provider that is qualified and is willing to meet the terms and conditions of the carrier's criteria for pharmacy participation as stipulated in the carrier's contractual agreement with its pharmacy providers.

This subsection may not be construed to limit a carrier's ability to offer an enrollee incentives, including variations in premiums, deductibles, copayments or coinsurance or variations in the quantities of medications available to the enrollee, to encourage the use of certain preferred pharmacy providers as long as the carrier makes the terms applicable to the preferred pharmacy providers available to all pharmacy providers. For purposes of this subsection, a preferred pharmacy provider is any pharmacy willing to meet the specified terms, conditions and price that the carrier may require for its preferred pharmacy providers.

2. Prompt payment of claims. Notwithstanding section 2436, the following provisions apply to the payment of claims submitted to a carrier by a pharmacy provider.

A. For purposes of this subsection, the following terms have the following meanings.

(1) "Applicable number of calendar days" means:

(a) With respect to claims submitted electronically, 21 days; and

(b) With respect to claims submitted otherwise, 30 days.

COMMITTEE AMENDMENT

1 (2) "Clean claim" means a claim that has no defect or impropriety, including any
2 lack of any required substantiating documentation, or particular circumstance
3 requiring special treatment that prevents timely payment from being made on the
4 claim under this section.

5 B. A contract entered into by a carrier with a pharmacy provider with respect to a
6 prescription drug plan offered by a carrier must provide that payment is issued,
7 mailed or otherwise transmitted with respect to all clean claims submitted by a
8 pharmacy provider, other than a pharmacy that dispenses drugs by mail order only or
9 a pharmacy located in, or under contract with, a long-term care facility, within the
10 applicable number of calendar days after the date on which the claim is received. For
11 purposes of this subsection, a claim is considered to have been received:

12 (1) With respect to claims submitted electronically, on the date on which the
13 claim is transferred; and

14 (2) With respect to claims submitted otherwise, on the 5th day after the postmark
15 date of the claim or the date specified in the time stamp of the transmission of the
16 claim.

17 C. If payment is not issued, mailed or otherwise transmitted by the carrier within the
18 applicable number of calendar days after a clean claim is received, the carrier shall
19 pay interest to the pharmacy provider at the rate of 18% per annum.

20 D. A claim is considered to be a clean claim if the carrier involved does not provide
21 notice to the pharmacy provider of any deficiency in the claim within 10 days after
22 the date on which an electronically submitted claim is received or within 15 days
23 after the date on which a claim submitted otherwise is received.

24 E. If a carrier determines that a submitted claim is not a clean claim, the carrier shall
25 immediately notify the pharmacy provider of the determination. The notice must
26 specify all defects or improprieties in the claim and list all additional information or
27 documents necessary for the proper processing and payment of the claim. If a
28 pharmacy provider receives notice from a carrier that a claim has been determined to
29 not be a clean claim, the pharmacy provider shall take steps to correct that claim and
30 then resubmit the claim to the carrier for payment.

31 F. A claim resubmitted to a carrier with additional information pursuant to paragraph
32 E is considered to be a clean claim if the carrier does not provide notice to the
33 pharmacy provider of any defect or impropriety in the claim within 10 days of the
34 date on which additional information is received if the claim is resubmitted
35 electronically or within 15 days of the date on which additional information is
36 received if the claim is resubmitted otherwise.

37 G. A claim submitted to a carrier that is not paid by the carrier or contested by the
38 plan sponsor within the applicable number of calendar days after the date on which
39 the claim is received by the carrier is considered to be a clean claim and must be paid
40 by the carrier.

41 H. Payment of a clean claim under this subsection is considered to have been made
42 on the date on which the payment is transferred with respect to claims paid

1 electronically and on the date on which the payment is submitted to the United States
2 Postal Service or common carrier for delivery with respect to claims paid otherwise.

3 I. A carrier shall pay all clean claims submitted electronically by electronic transfer
4 of funds if the pharmacy provider so requests or has so requested previously. In the
5 case when the payment is made electronically, remittance may be made by the carrier
6 electronically.

7 3. Exception. This section does not apply to any medical assistance or public health
8 programs administered by the Department of Health and Human Services, including, but
9 not limited to, the Medicaid program and the elderly low-cost drug program under Title
10 22, section 254-D.

11 **Sec. 2. Application.** This Act applies to all policies, contracts and certificates
12 executed, delivered, issued for delivery, continued or renewed in this State on or after the
13 effective date of this Act. For purposes of this Act, all contracts are deemed to be
14 renewed no later than the next yearly anniversary of the contract date.'

15 **SUMMARY**

16 This amendment replaces the bill. The amendment prohibits a carrier from refusing to
17 contract with a pharmacy provider that meets the terms and conditions established by the
18 carrier. The amendment clarifies that a carrier may offer enrollees incentives to
19 encourage the use of certain preferred pharmacy providers as long as the carrier makes
20 the same terms applicable to preferred pharmacy providers available to all pharmacy
21 providers. The amendment also requires a carrier to pay all clean electronic claims within
22 21 days after the claim is received by the carrier.