

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1364

H.P. 1003

House of Representatives, March 30, 2011

An Act To Improve the Quality and Reduce the Cost of Health Care

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative FITTS of Pittsfield.
Cosponsored by President RAYE of Washington and
Representatives: CAIN of Orono, CUSHING of Hampden, FOSTER of Augusta, STRANG
BURGESS of Cumberland, WINTLE of Garland, Senators: BRANNIGAN of Cumberland,
PLOWMAN of Penobscot.

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

2 **Sec. 1. 22 MRSA §3174-QQ** is enacted to read:

3 **§3174-QQ. Pharmaceuticals purchased through 340B covered entities**

4 Beginning January 1, 2012, the department shall coordinate the purchase of
5 prescription drugs for MaineCare members through 340B covered entities in order for the
6 MaineCare program to negotiate the lowest possible prices and avoid retail markup as
7 provided in this section.

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
9 following terms have the following meanings.

10 A. "340B covered entity" means an organization eligible for prescription drug
11 discounts under Section 340B of the federal Public Health Service Act, 42 United
12 States Code, Section 256b (1999). "340B covered entity" includes but is not limited
13 to a federally qualified health center, federally qualified health center look-alike, as
14 defined by the United States Department of Health and Human Services, critical
15 access hospital and hospital eligible as a disproportionate share hospital.

16 B. "Prescription drug" has the same meaning as in Title 32, section 13702-A,
17 subsection 30.

18 **2. Calculation and distribution of savings.** The department shall work with 340B
19 covered entities that are participating in the MaineCare program under this section and
20 the United States Department of Health and Human Services, Centers for Medicare and
21 Medicaid Services to calculate on a quarterly basis the savings attributable to purchasing
22 prescription drugs under this section as compared to the net cost after all applicable
23 rebates that would be paid if the department had not been able to purchase under this
24 section.

25 Of any savings recognized pursuant to this subsection, 75% must be retained by the
26 department. The remaining 25% must be distributed by the department on a quarterly
27 basis in the following priority.

28 A. As the first priority, federally qualified health centers and federally qualified
29 health center look-alikes must be reimbursed for copayments due under section
30 3173-C, subsection 7, paragraphs R and S but not paid by the member.

31 B. As the 2nd priority, the savings must be used by the department to invest in new
32 or existing initiatives to improve the quality of health care as follows:

33 (1) The department shall direct the first \$400,000 under this paragraph to a
34 statewide association representing federally qualified health centers to assist the
35 centers in achieving accreditation as patient-centered medical homes; and

36 (2) The department shall direct up to the next \$250,000 to improve medication
37 management and safety as follows:

38 (a) The department shall direct up to \$150,000 under this division to
39 sponsors of multidisciplinary teams in a patient safety pharmacy

1 collaborative under the directive of the United States Department of Health
2 and Human Services, Health Resources and Services Administration, based
3 on criteria developed by the department after consultation with associations
4 representing federally qualified health centers, hospitals, pharmacies,
5 pharmacists, home health agencies and other entities providing health care;
6 and

7 (b) The department shall direct up to \$100,000 under this division to 2
8 sponsors of demonstration projects in medication therapy management in
9 which pharmacies collaborate with 340B covered entities, based on criteria
10 developed by the department after consultation with associations representing
11 federally qualified health centers, pharmacies and pharmacists.

12 C. As the 3rd priority, the savings must be used by the department to support
13 employees of federally qualified health centers who perform eligibility functions for
14 the department under contract in an amount up to \$400,000.

15 D. As the 4th priority, the department shall use the balance to support federally
16 qualified health centers for sponsorship of a program to expand access to preventive
17 and primary care in underserved areas through assistance with applying for federal
18 funding to establish a federally qualified health center or financial support for
19 existing federally qualified health centers.

20 **3. Exemption.** If the department determines that, for a particular named prescription
21 drug, purchase through 340B covered entities will not produce any savings over purchase
22 by another method, purchase through the 340B covered entity is not required.

23 **4. Rulemaking.** The department shall adopt rules to implement this section. Rules
24 adopted under this subsection are routine technical rules as defined in Title 5, chapter
25 375, subchapter 2-A.

26 **SUMMARY**

27 This bill directs the Department of Health and Human Services to coordinate the
28 purchase of prescription drugs for MaineCare members through certain organizations
29 eligible for prescription drug discounts under the federal Public Health Service Act,
30 referred to as "340B covered entities," in order for the MaineCare program to negotiate
31 the lowest possible prices and avoid retail markup beginning January 1, 2012. The bill
32 provides a mechanism to calculate savings from establishing the 340B program and
33 distribute the savings among 340B covered entities. The bill provides for routine
34 technical rulemaking as required to implement the provisions of the bill.