

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1376

S.P. 483

In Senate, April 9, 2013

**An Act To Ensure the Choice of a Pharmacy for Injured Employees
under the Workers' Compensation Act of 1992**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator PATRICK of Oxford.

Cosponsored by Representative CAMPBELL of Newfield and

Senators: CAIN of Penobscot, CLEVELAND of Androscoggin, GOODALL of Sagadahoc,
JACKSON of Aroostook, TUTTLE of York, Representatives: GILBERT of Jay, HAMANN of
South Portland, MASTRACCIO of Sanford.

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

2 **Sec. 1. 39-A MRSA §206, sub-§11**, as amended by PL 2007, c. 695, Pt. B, §24,
3 is further amended to read:

4 **11. Generic drugs.** Providers shall prescribe generic drugs whenever medically
5 acceptable for the treatment of an injury or disease for which compensation is claimed.
6 An employee shall purchase generic drugs for the treatment of an injury or disease for
7 which compensation is claimed if the prescribing provider indicates that generic drugs
8 may be used and if generic drugs are available at the time and place of purchase under
9 subsection 11-A. If an employee purchases a nongeneric drug when the prescribing
10 provider has indicated that a generic drug may be used and a generic drug is available at
11 the time and place of purchase, the insurer or self-insurer is required to reimburse the
12 employee for the cost of the generic drug only, pursuant to subsection 11-A, paragraph B.
13 For purposes of this ~~section~~ subsection, "generic drug" has the same meaning found in
14 Title 32, section 13702-A, subsection 14.

15 **Sec. 2. 39-A MRSA §206, sub-§11-A** is enacted to read:

16 **11-A. Pharmacy choice.** An employee who has been prescribed drugs for the
17 treatment of an injury or disease for which compensation is claimed has the right to select
18 the provider, pharmacy or pharmacist for dispensing and filling the prescription for the
19 drugs. The insurer or self-insurer shall reimburse the prescribing provider, pharmacy or
20 pharmacist pursuant to a formula based on the average wholesale price of the drugs as
21 reported by a nationally recognized pharmaceutical price guide or other publication of
22 pharmaceutical pricing data in effect on the day the prescription is dispensed. The
23 formula for reimbursing a provider, pharmacy or pharmacist for drugs under this section
24 is:

25 A. For generic drugs, the reimbursement amount is the average wholesale price per
26 unit multiplied by the total number of units multiplied by 1.25, plus a \$4.00
27 dispensing fee; and

28 B. For brand-name drugs, the reimbursement amount is the average wholesale price
29 per unit multiplied by the total number of units multiplied by 1.09, plus a \$4.00
30 dispensing fee.

31 For purposes of this subsection, "drug" has the same meaning as in Title 32, section
32 13702-A, subsection 11 and "generic drug" has the same meaning as in Title 32, section
33 13702-A, subsection 14.

34 **SUMMARY**

35 This bill gives an injured employee the right under the Maine Workers'
36 Compensation Act of 1992 to choose the provider, pharmacy or pharmacist to dispense
37 any drugs or medication prescribed to treat the injury or disease for which compensation
38 is claimed and sets formulas for reimbursement under the Maine Workers' Compensation
39 Act of 1992 for generic and brand-name drugs or medications.