

MAINE STATE LEGISLATURE

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Date: 3/11/16

L.D. 1150
(Filing No. H-556)

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INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 788, L.D. 1150, Bill, "An Act Regarding Maximum Allowable Cost Pricing Lists Used by Pharmacy Benefit Managers"

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

Sec. 1. 24-A MRS §4317, sub-§12 is enacted to read:

12. Maximum allowable cost. This subsection governs the maximum allowable cost for a prescription drug as determined by a pharmacy benefits manager.

A. As used in this subsection, "maximum allowable cost" means the maximum amount that a pharmacy benefits manager pays toward the cost of a prescription drug.

B. A pharmacy benefits manager may set a maximum allowable cost for a prescription drug, or allow a prescription drug to continue on a maximum allowable cost list, only if that prescription drug:

(1) Is rated as "A" or "B" in the most recent version of the United States Food and Drug Administration's "Approved Drug Products with Therapeutic Equivalence Evaluations," also known as "the Orange Book," or an equivalent rating from a successor publication, or is rated as "NR" or "NA" or a similar rating by a nationally recognized pricing reference; and

(2) Is not obsolete and is generally available for purchase in this State from a national or regional wholesale distributor by pharmacies having a contract with the pharmacy benefits manager.

C. A pharmacy benefits manager shall establish a process for removing a prescription drug from a maximum allowable cost list or modifying a maximum allowable cost for a prescription drug in a timely manner to remain consistent with changes to such costs and the availability of the drug in the national marketplace.

D. With regard to a pharmacy with which the pharmacy benefits manager has entered into a contract, a pharmacy benefits manager shall:

COMMITTEE AMENDMENT

- 1 (1) Upon request, disclose the sources used to establish the maximum allowable
2 costs used by the pharmacy benefits manager;
- 3 (2) Provide a process for a pharmacy to readily obtain the maximum allowable
4 reimbursement available to that pharmacy under a maximum allowable cost list;
5 and
- 6 (3) At least once every 7 business days, review and update maximum allowable
7 cost list information to reflect any modification of the maximum allowable
8 reimbursement available to a pharmacy under a maximum allowable cost list
9 used by the pharmacy benefits manager.
- 10 E. A pharmacy benefits manager shall provide a reasonable administrative appeal
11 procedure, including a right to appeal that is limited to 14 days following the initial
12 claim, to allow pharmacies with which the pharmacy benefits manager has a contract
13 to challenge maximum allowable costs for a specified drug.
- 14 F. The pharmacy benefits manager shall respond to, investigate and resolve an
15 appeal under paragraph E within 14 days after the receipt of the appeal. The
16 pharmacy benefits manager shall respond to an appeal as follows:
- 17 (1) If the appeal is upheld, the pharmacy benefits manager shall make the
18 appropriate adjustment in the maximum allowable cost and permit the
19 challenging pharmacy or pharmacist to reverse and rebill the claim in question; or
- 20 (2) If the appeal is denied, the pharmacy benefits manager shall provide the
21 challenging pharmacy or pharmacist the national drug code from national or
22 regional wholesalers of a comparable prescription drug that may be purchased at
23 or below the maximum allowable cost.
- 24 G. The requirements of this subsection apply to contracts between a pharmacy and a
25 pharmacy benefits manager executed or renewed on or after September 1, 2016.'

SUMMARY

27 This amendment replaces the bill. The amendment establishes certain requirements
28 relating to maximum allowable cost pricing lists used by pharmacy benefits managers.

29 The amendment provides that a pharmacy benefits manager may set a maximum
30 allowable cost for a prescription drug only if that drug is rated as "A" or "B" in the most
31 recent version of the United States Food and Drug Administration's "Approved Drug
32 Products with Therapeutic Equivalence Evaluations," also known as "the Orange Book,"
33 or an equivalent rating from a successor publication, or is rated as "NR" or "NA" or a
34 similar rating by a nationally recognized pricing reference and the drug is not obsolete
35 and is generally available for purchase in this State.

36 The amendment requires a pharmacy benefits manager to remove or modify in a
37 timely manner a maximum allowable cost for a prescription drug as necessary for the cost
38 of the prescription drug to remain consistent with changes to such costs and availability
39 of the drug in the national marketplace for prescription drugs.

1 The amendment requires a pharmacy benefits manager to provide the following to a
2 pharmacy with which the pharmacy benefits manager has a contract:

3 1. Disclose the sources used to establish the maximum allowable costs used by the
4 pharmacy benefits manager upon request;

5 2. Provide a process for a pharmacy to readily obtain the maximum allowable
6 reimbursement available to that pharmacy under a maximum allowable cost list; and

7 3. At least once every 7 business days, review and update maximum allowable cost
8 list information to reflect any modification of the maximum allowable reimbursement
9 available to a pharmacy under a maximum allowable cost list used by the pharmacy
10 benefits manager.

11 The amendment establishes an appeal process to allow a pharmacy to challenge a
12 drug's maximum allowable cost under certain conditions.

13 The amendment specifies that the provisions apply to contracts between a pharmacy
14 benefits manager and a pharmacy beginning September 1, 2016.

15 **FISCAL NOTE REQUIRED**

16 (See attached)



127th MAINE LEGISLATURE

LD 1150

LR 476(05)

An Act Regarding Maximum Allowable Cost Pricing Lists Used by Pharmacy Benefit Managers

Fiscal Note for Bill as Amended by Committee Amendment *B'(H-556)*
Committee: Insurance and Financial Services
Fiscal Note Required: Yes

Fiscal Note

	FY 2015-16	FY 2016-17	Projections FY 2017-18	Projections FY 2018-19
Net Cost (Savings)				
General Fund	\$0	\$0	\$97,155	\$97,155
Highway Fund	\$0	\$0	\$3,244	\$3,244
Appropriations/Allocations				
General Fund	\$0	\$0	\$97,155	\$97,155
Highway Fund	\$0	\$0	\$3,244	\$3,244

Fiscal Detail and Notes

This bill will increase costs to the State Employee Health Plan due to the change in the maximum allowable costs list rules for pharmacy benefits managers for contracts beginning on or after September 1, 2016. The bill would not have any impact on the current biennial budget since the State's Contract with a pharmacy benefits manager ends on June 30, 2017. Moving forward it is estimated that there will be an annual cost of \$97,155 to the General Fund and \$3,244 to the Highway Fund for contributions to the costs of the State Employee Health Plan.