

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2024

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Legislative Document

No. 2175

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S.P. 926

In Senate, January 22, 2024

### **An Act to Improve Access to Affordable Prescription Drugs in Underserved Areas**

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Health Coverage, Insurance and Financial Services 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 President JACKSON of Aroostook.

Cosponsored by Speaker TALBOT ROSS of Portland and

Senators: BAILEY of York, CURRY of Waldo, HICKMAN of Kennebec, NANGLE of Cumberland, RENY of Lincoln, TIPPING of Penobscot, Representatives: ARFORD of Brunswick, PERRY of Calais.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** the federal drug pricing program under Section 340B of the federal Public  
4 Health Service Act, 42 United States Code, Section 256b requires prescription drug  
5 manufacturers to offer discounted pricing to certain covered entities, including federally  
6 qualified health centers; and

7           **Whereas,** federally qualified health centers serve rural and other underserved areas,  
8 delivering health care that would otherwise be inaccessible to residents of such areas; and

9           **Whereas,** a crucial part of such care is the provision of life-saving prescription drugs  
10 at affordable prices made possible by the 340B program, which also generates savings that  
11 federally qualified health centers must, as a matter of mission and federal law, use to reduce  
12 costs and improve access to services for patients of those health centers; and

13           **Whereas,** prescription drug manufacturers have recently imposed conflicting and  
14 burdensome requirements for covered entities to obtain discounted pricing under the 340B  
15 program, depriving patients of access to affordable prescription drugs under the 340B  
16 program; and

17           **Whereas,** the number of retail pharmacies and the hours of operation of retail  
18 pharmacies in underserved areas of the State have been dramatically reduced in recent years  
19 due to workforce challenges and other economic challenges; and

20           **Whereas,** federally qualified health centers can compensate for the decline in  
21 availability of retail pharmacies and for the restrictive practices of prescription drug  
22 manufacturers only by developing or expanding their capacity to provide retail pharmacy  
23 services as part of their health center services, yet existing health center revenues and  
24 resources are insufficient to support such development and expansion; and

25           **Whereas,** it is therefore essential to provide immediate funding support for federally  
26 qualified health centers to develop and expand retail pharmacy capacity in this State to  
27 address the critical shortage of access to affordable prescription drugs; and

28           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
29 the meaning of the Constitution of Maine and require the following legislation as  
30 immediately necessary for the preservation of the public peace, health and safety; now,  
31 therefore,

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

33           **Sec. 1. 22 MRSA §259, sub-§1, ¶B,** as amended by PL 2015, c. 267, Pt. JJJ, §1,  
34 is further amended to read:

35           B. Six hundred ninety-nine thousand, one hundred fifty dollars in fiscal year 2001-02  
36 to federally qualified health centers to support the infrastructure of these programs in  
37 providing primary care services to underserved populations. Forty-four thousand, two  
38 hundred fifty dollars must be provided to each federally qualified health center with an  
39 additional \$8,850 for the 2nd and each additional site operated by a federally qualified  
40 health center. For the purposes of this paragraph, "site" means a site or sites operated  
41 by the federally qualified health center within its scope of service that meet all health  
42 center requirements, including providing primary care services, regardless of patients'

1 ability to pay, 5 days a week with extended hours. If there is not sufficient funding to  
2 meet the formula in this paragraph, the \$699,150 must be allocated in proportion to the  
3 formula outlined in this paragraph; ~~and~~

4 **Sec. 2. 22 MRSA §259, sub-§1, ¶C**, as enacted by PL 2015, c. 267, Pt. JJJ, §1, is  
5 amended to read:

6 C. Five hundred thousand dollars, beginning with fiscal year 2015-16 and continuing  
7 each fiscal year thereafter, to support access to primary medical, behavioral health and  
8 dental services to residents of the State in rural and underserved communities and to  
9 assist with provider recruitment and retention. Twenty-five thousand dollars must be  
10 provided to each federally qualified health center; and

11 **Sec. 3. 22 MRSA §259, sub-§1, ¶D** is enacted to read:

12 D. Seven million five hundred thousand dollars in fiscal year 2024-25 to support access  
13 to pharmacy services and affordably priced prescription drugs to residents of the State  
14 in rural and underserved communities by providing funds to support federally qualified  
15 health centers in developing or improving pharmacy services, including without  
16 limitation:

17 (1) Planning, designing, constructing and operating one or more licensed retail  
18 pharmacies as part of a federally qualified health center's services;

19 (2) Entering into arrangements, including with one or more federally qualified  
20 health centers, to expand the availability of prescription drugs purchased and  
21 delivered to patients under the federal drug pricing program under Section 340B  
22 of the federal Public Health Service Act, 42 United States Code, Section 256b; and

23 (3) Expanding access to prescription drugs supplied by one or more federally  
24 qualified health centers, including without limitation by increasing the number of  
25 locations from which patients may obtain prescription drugs, improving existing  
26 pharmacy facilities, expanding the availability of automated pharmacy systems as  
27 defined in Title 32, section 13702-A, subsection 1 or addressing workforce issues  
28 related to pharmacy program planning and operation.

29 **Sec. 4. 22 MRSA §259, sub-§3** is enacted to read:

30 **3. Allocation of pharmacy services support funding.** Each federally qualified health  
31 center may apply for funds made available pursuant to subsection 1, paragraph D by  
32 providing the Office of Affordable Health Care, as established in Title 5, section 3122, with  
33 a budget and plan for developing or improving pharmacy services and access to affordably  
34 priced prescription drugs for its patients. The Office of Affordable Health Care shall  
35 allocate available funds equitably among all applicants based on the cost-effectiveness and  
36 feasibility of the proposed development or improvement of patient access to affordably  
37 priced prescription drugs. In developing criteria for awarding available funds, the Office  
38 of Affordable Health Care shall consult with and consider the recommendations of a  
39 statewide association of federally qualified health centers. Any available funds not awarded  
40 in fiscal year 2024-25 must be deposited in a nonlapsing account from which awards may  
41 be made in subsequent fiscal periods for the purposes set forth in subsection 1, paragraph  
42 D.

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**Sec. 5. Implementation.** The Office of Affordable Health Care, as established in the Maine Revised Statutes, Title 5, section 3122, shall publish a schedule and instructions for the content of applications and criteria for determining awards for the pharmacy services support program described in this legislation. The Office of Affordable Health Care's schedule must ensure that initial awards of funding be made no later than December 15, 2024 and must ensure that applicants have no less than 60 days to prepare and submit applications after instructions for the content of applications and criteria for selection have been published. Notwithstanding any provision of law to the contrary, the Office of Affordable Health Care shall ensure that a majority of the persons selected to evaluate the applications have substantial training or experience in the operation and management of a federally qualified health center, by including among those evaluating the applications volunteers recommended by a statewide association of federally qualified health centers.

**Sec. 6. Change in scope adjustment.** Upon issuance of each award pursuant to the Maine Revised Statutes, Title 22, section 259, subsection 3, the Office of Affordable Health Care, as established in Title 5, section 3122, shall promptly implement a change in scope adjustment pursuant to Title 22, section 3174-V, subsection 4 to reflect the ongoing costs for the federally qualified health center receiving the grant to reflect the ongoing costs of operating expanded or improved pharmacy services.

**Sec. 7. Appropriations and allocations.** The following appropriations and allocations are made.

**OFFICE OF AFFORDABLE HEALTH CARE**

**Office of Affordable Health Care Z320**

Initiative: Provides one-time funding for the Office of Affordable Health Care to support federally qualified health centers in developing and expanding pharmacy services and access to affordably priced prescription drugs for the patients of such health centers.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
All Other	\$0	\$7,500,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$7,500,000</b>

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

**SUMMARY**

This bill directs the Office of Affordable Health Care to provide support for federally qualified health centers to develop or expand the centers' capacity to provide access to affordably priced prescription drugs to patients by increasing the centers' ability to deliver pharmacy services to those patients. The bill appropriates \$7,500,000 in fiscal year 2024-25 for that purpose. The bill provides that initial awards of support must be made by December 15, 2024 and that the selection process must be performed by an evaluation team, the majority of whose members must be persons experienced in the operation and management of federally qualified health centers.