

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

~~meeting the requirements of this section for designation of a Pine Tree Development Zone or adoption of a development plan and with the concurrence of~~ may be amended by an affirmative vote of all other the participating units of local government as evidenced by a majority vote of the municipal officers or legislative body of each unit of local government. A participating unit of local government may not amend the designation of a Pine Tree Development Zone if the amendment would An amendment may not result in the zone's being out of compliance with any of the requirements in section 5247.

Sec. 2. 35-A MRSA §3210-B is enacted to read:

§3210-B. Electric utility and conservation benefits

1. Discount rates. Transmission and distribution utilities may offer discounted rates to qualified Pine Tree Development Zone businesses established under Title 30-A. If a transmission and distribution utility requires approval prior to offering any such rate, the transmission and distribution utility shall apply to the commission in accordance with applicable provisions of this Title, and the commission may approve the rate if it finds it to be in accord with applicable requirements of this Title, except that the commission may take into account the overall benefits to ratepayers resulting from state efforts to promote economic development within Pine Tree Development Zones.

2. Line extensions. When approving or authorizing line extension terms and conditions for qualified Pine Tree Development Zone businesses established under Title 30-A, the commission may take into account the overall benefits to ratepayers resulting from state efforts to promote economic development within Pine Tree Development Zones established pursuant to Title 30-A.

3. Conservation programs. In designing and implementing conservation programs pursuant to section 3211-A, the commission may make available to qualified Pine Tree Development Zone businesses established under Title 30-A special programs of enhanced value to aid state efforts to promote economic development within Pine Tree Development Zones. A program made available pursuant to this subsection must be cost-effective as defined by the commission by rule or order pursuant to section 3211-A.

4. Electricity sales. Notwithstanding section 3210, the sale of electricity by a competitive electricity provider to a qualified Pine Tree Development Zone business established under Title 30-A is exempt from the requirements of that section and, at the request of the competitive electricity provider, sales to qualified

Pine Tree Development Zone businesses must be excluded from any calculation by the commission to determine compliance with that section.

5. Repeal. This section is repealed December 31, 2009.

See title page for effective date.

CHAPTER 611

H.P. 1269 - L.D. 1747

An Act To Amend the Medicaid Drug Rebate Program and the Elderly Low-cost Drug Program

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

Sec. 1. 22 MRSA §254, sub-§4-A, as amended by PL 2003, c. 20, Pt. GGG, §3, is repealed and the following enacted in its place:

4-A. Payment for drugs provided. The commissioner may establish the amount of payment to be made by the program and by recipients of the program toward the cost of drugs and medications furnished under the program, including covered prescription and nonprescription drugs, medications and medical supplies, under the following terms.

A. For the basic component of the program, the total cost to a recipient for the purchase of any covered drug or medication may not exceed the sum of \$2 plus 20% of the price allowed for that drug or medication under program rules.

B. For the supplemental component of the program, the total cost to a recipient for the purchase of any covered drug or medication may not exceed:

(1) For a brand name drug or medication, the cost of the program for that drug or medication minus the \$2 paid by the program; and

(2) For a generic drug or medication, the sum of \$2 plus 20% of the price allowed for that drug or medication under program rules.

C. For the catastrophic program, the commissioner shall establish annual limits on the costs incurred by recipients for drugs and medications covered under the program on or prior to May 31, 2001. After the limit is reached, the program shall pay 80% of the cost of each drug and medication covered by the supplemental component

of the program on May 31, 2001 minus \$2. Any remaining amount is paid by the recipient. The limits must be set by the commissioner by rule as necessary to operate the program within the program budget;

Sec. 2. 22 MRSA §3174-R, as enacted by PL 1997, c. 643, Pt. RR, §5, is amended to read:

§3174-R. Medicaid drug rebate program

The department shall enter into a drug rebate agreement with each manufacturer of prescription drugs under the Medicaid program in accordance with Section 1927 of the federal Social Security Act, as long as the agreements are consistent with state and federal law, ~~are approved by the federal Health Care Finance Administration and result in a net increase in rebate revenue available to the Maine Medicaid Program. Individual rebate agreements may vary. The department shall seek to achieve an aggregate rebate amount from all agreements that is at least 6 percentage points higher than the percentage of the total Medicaid drug expenditures that the rebates would otherwise be under Section 1927 of the federal Social Security Act. Any increase in revenue from the Medicaid drug rebate program over accepted estimates as of the effective date of this section that results in a higher percentage of the total Medicaid drug rebates must be reserved to provide coverage pursuant to section 3174 G, subsection 1 A. In the event that the department is not able to achieve the rebate amount required by this section without compromising the best interest of Medicaid recipients and the Medicaid drug rebate program, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs in the next regular session of the 119th Legislature.~~

See title page for effective date.

CHAPTER 612

H.P. 1270 - L.D. 1748

An Act To Amend the Rule-making Authority of the Department of Human Services to Ensure Cost-effective Operation of State Medical Services Programs and Compliance with Federal Requirements

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State of Maine needs to ensure that all legislatively mandated deappropriations are

implemented to the fullest extent possible and that all possible revenue sources are used to the maximum extent possible; and

Whereas, if such actions are not taken it may be necessary to implement new service or reimbursement reductions; and

Whereas, the State must comply with federal mandates in the operation of various programs in which the Federal Government provides matching funds, including Medicaid, TANF and food stamps; and

Whereas, the State may not have an opportunity to adopt rules complying with federal requirements until after those requirements are in effect; and

Whereas, the State must conform its Medicaid rules to the state plan filed with the Federal Government; and

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

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

Sec. 1. 22 MRSA §42, sub-§8 is enacted to read:

8. Adoption of rules with retroactive application. The department is authorized to adopt rules that have a retroactive application for a period not to exceed 8 calendar quarters prior to the date of issuance of the rule in accordance with the provisions of this subsection.

A. The Bureau of Medical Services is authorized to adopt rules that have retroactive application when necessary to maximize available federal revenue sources, specifically regarding the federal Medicaid program, or to conform to the state Medicaid plan as filed with the Federal Government. The Bureau of Family Independence is authorized to adopt rules in the MaineCare, Temporary Assistance for Needy Families and food stamp programs that have retroactive application to comply with federal requirements or to conform to the state Medicaid plan as filed with the Federal Government.

B. With respect to any services that MaineCare providers have rendered prior to the date of adoption of retroactive rules adopted pursuant to this subsection, such rules may not reduce or otherwise negatively affect the reimbursement or