

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2016 to April 29, 2016

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 29, 2016

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

Augusta, Maine
2016

B. Each commissioner who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication identifies all persons present at the location from which the commissioner is participating;

C. A commissioner who participates while not physically present at the location of the public proceeding identified in the notice required by Title 1, section 406 does so only when the commissioner's attendance is not reasonably practical. The reason that the commissioner's attendance is not reasonably practical must be stated in the minutes of the meeting; and

D. Each commissioner who is not physically present at the location of the public proceeding and who is participating through telephonic, video, electronic or other similar means of communication has received prior to the public proceeding all documents and materials discussed at the public proceeding, with substantially the same content as those presented at the public proceeding. Documents or other materials made available at the public proceeding may be transmitted to the commissioner not physically present during the public proceeding if the transmission technology is available. Failure to comply with this paragraph does not invalidate an action taken by the bank at the public proceeding.

See title page for effective date.

CHAPTER 450
H.P. 788 - L.D. 1150

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

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

Sec. 1. 24-A MRSA §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:

(1) Upon request, disclose the sources used to establish the maximum allowable costs used by the pharmacy benefits manager;

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

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

E. A pharmacy benefits manager shall provide a reasonable administrative appeal procedure, including a right to appeal that is limited to 14 days following the initial claim, to allow pharmacies with which the pharmacy benefits manager has a contract to challenge maximum allowable costs for a specified drug.

F. The pharmacy benefits manager shall respond to, investigate and resolve an appeal under paragraph E within 14 days after the receipt of the appeal. The pharmacy benefits manager shall respond to an appeal as follows:

(1) If the appeal is upheld, the pharmacy benefits manager shall make the appropriate adjustment in the maximum allowable cost and permit the challenging pharmacy or pharmacist to reverse and rebill the claim in question; or

(2) If the appeal is denied, the pharmacy benefits manager shall provide the challenging pharmacy or pharmacist the national drug code from national or regional wholesalers of a comparable prescription drug that may be purchased at or below the maximum allowable cost.

G. The requirements of this subsection apply to contracts between a pharmacy and a pharmacy benefits manager executed or renewed on or after September 1, 2016.

See title page for effective date.

CHAPTER 451

S.P. 646 - L.D. 1605

**An Act To Extend the Time for
Commencing an Action
Relating to Death Caused by
Homicide**

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

Sec. 1. 18-A MRSA §2-804, sub-§(b), as amended by PL 2009, c. 180, §1, is further amended to read:

(b). Every wrongful death action must be brought by and in the name of the personal representative of the deceased person. The amount recovered in every wrongful death action, except as otherwise provided, is for the exclusive benefit of the surviving spouse if no minor children, of the children if no surviving spouse, one-half for the exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them if there are both surviving spouse and minor children and to the deceased's heirs to be distributed as provided in section 2-106 if there is neither surviving spouse nor minor children. The jury may give damages as it determines a fair and just compensation with reference to the pecuniary injuries resulting from the death and in addition shall give such damages that will compensate the estate of the deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses. In addition, the jury may give damages not exceeding \$500,000 for the loss of comfort, society and companionship of the deceased, including any damages for emotional distress arising from the same

facts as those constituting the underlying claim, to the persons for whose benefit the action is brought. The jury may also give punitive damages not exceeding \$250,000. An action under this section must be commenced within 2 years after the decedent's death, except that if the decedent's death is caused by a homicide, the action may be commenced within 6 years of the date the personal representative of the decedent discovers that there is a just cause of action against the person who caused the homicide. If a claim under this section is settled without an action having been commenced, the amount paid in settlement must be distributed as provided in this subsection. A settlement on behalf of minor children is not valid unless approved by the court, as provided in Title 14, section 1605.

Sec. 2. Application. This Act applies to wrongful death actions under the Maine Revised Statutes, Title 18-A, section 2-804, subsection (b) that, as of the effective date of this Act, have not yet been barred by the statute of limitations in force immediately prior to the effective date of this Act.

See title page for effective date.

CHAPTER 452

H.P. 652 - L.D. 949

**An Act To Enact the
Recommendations of the
Commission on Independent
Living and Disability**

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

Sec. 1. 5 MRSA §19505, sub-§3, as enacted by PL 1989, c. 837, §1, is amended to read:

3. Pursuit of remedies. The agency may pursue administrative, legal and other appropriate remedies on behalf of persons with disabilities. The agency has standing to file a civil action for alleged violations of chapter 337, subchapter 5 in Superior Court. Notwithstanding section 4622, subsection 1, the agency may be awarded reasonable attorney's fees and costs as provided in section 4614.

Sec. 2. 26 MRSA §1412-I is enacted to read:

§1412-I. Strategic planning report

1. Annual report. In addition to its existing duties, the Statewide Independent Living Council, established pursuant to 29 United States Code, Sections 796 to 796f (1999) and administered by the Bureau of Rehabilitation Services, shall, beginning January 15, 2017, provide an annual report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint stand-