

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
MAINE PRESCRIPTION DRUG AFFORDABILITY BOARD  
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AUGUSTA, MAINE 04333-0078

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GOVERNOR

NOAH NESIN, MD  
CHAIR

March 2, 2022

Report of the Maine Prescription Drug Affordability Board:  
Recommendations to Reduce Prescription Drug Spending

**Background:**

The Maine Prescription Drug Affordability Board (MPDAB) was established in 2019 pursuant to [MRS Title 5 Chapter 167-1](#).

Mission: To determine annual spending targets for prescription drugs purchased by Maine public payers and make recommendations to achieve the targets.

Vision: Board recommendations will target strategies to achieve prescription drug affordability while maintaining safety and ensuring clinically appropriate use. The spending targets will be based upon a 10-year rolling average of the medical care services component plus a reasonable percentage for inflation and minus a spending target determined by the board for pharmacy savings. In addition, spending targets will be determined on specific prescription drugs that may cause affordability challenges to enrollees.

MPDAB Membership:

<b>Board Member:</b>	<b>Title/Occupation:</b>	<b>Nominated by:</b>
Noah Nesin, MD (Chair)	Innovation Advisor, Penobscot Community Health Care	Governor of Maine
Kenneth McCall, Pharm.D. (Alternate)	Professor, University of New England School of Pharmacy	Governor of Maine
Peter Hayes	President/CEO Healthcare Purchaser Alliance of ME	President of the Senate
Jennifer Reck (Alternate)	Project Director National Academy for State Health Policy	President of the Senate
Susan Wehry, MD	Chief of Geriatrics, Primary Care University of New England	Speaker of the House
Julia Redding, DO	Family & Geriatric Medicine Maine Medical Center	Speaker of the House
Rhonda Selvin, FNP (Alternate)	Family Medicine	Speaker of the House

Advisory Council Members:

Bethany Beausang from the Office of the Governor, Kristy Gould from Maine Municipal Employees Health Trust, Jennifer Kent from Maine Education Association Trust, Robert Nadeau from the Maine Community College System, Kate Ende from Maine Consumers for Affordable Health Care, Jonathan French from Maine Service Employees Association, Ryan Low from University of Maine System,

Christina Moylan, Assistant Attorney General, Heather Perreault, Maine Deputy Commissioner of Finance, Shonna Poulin-Gutierrez, Executive Director, Maine Employee Health and Wellness, Karen Yeaton from Maine Department of Corrections, Anne-Marie Toderico, Pharmacy Director, Office of MaineCare Services.

### **Recommendations to lower prescription drug prices for Maine public payers:**

Whether you have insurance or not, the high cost of prescription drugs is a serious threat to the health of individuals and families across Maine. No one solution will remedy this problem as the U.S. drug pricing system is both complex and opaque. A comprehensive and multifaceted approach is needed to address prescription drug prices, which includes short-term (payer-focused strategies) and longer-term (legislative) recommendations.

The Maine Prescription Drug Affordability Board has identified three payer-focused recommendations for Maine public payers which have a low barrier to implementation and a high potential for savings. The Board recommends that Maine public payers adopt the following strategies: model Pharmacy Benefit Manager (PBM) contract terms, waste-free formularies, and PBM reverse auctions. The extent to which a plan is able to adopt these recommendations may vary depending on whether the plan is fully insured or self-insured.

This report represents the positions and recommendations of the members of an independent Board. The Department of Administrative and Financial Services staff's role was to convene and support the independent Board; the Department has not taken any position on these recommendations. The Department and Governor's Administration will review and react to any proposals related to this report through the Legislative Committee process.

### **Payer-focused Strategies:**

#### Recommendation 1: Check your plan for wasteful drugs to create a waste-free formulary

According to the Johns Hopkins Drug Access and Affordability Initiative, a wasteful drug is a drug which costs more and "...doesn't provide additional clinical value compared to other drugs that are used for the same condition." Wasteful drugs include high-cost branded or generic products when less expensive generics are available, fixed-dose combination drugs costing substantially more than the individual ingredients, drugs for which over-the-counter options are available, and "me-too" drugs which add no clinical value as compared to the less expensive original product.

Why would wasteful drugs be included on a formulary in the first place? According to the Johns Hopkins report, "the revenue model where PBMs keep a portion of the spread, rebate, or other fees paid by drug manufacturers creates a financial incentive for PBMs to prefer or allow drugs with high prices and large rebates or large spreads, which often results in having wasteful drugs on the formulary." Removing wasteful drugs from formularies and replacing them with drugs that offer the same benefits at a lower cost has been shown to save millions for public purchasers. One such example is [Tennessee](#) (The Self-Insurer, February 2021, Page 7). The State of Tennessee has about 286,000 covered lives on their state employee plan. A predictive analysis showed the state saving \$42.3 million in one year. According to Kendra Gipson, Director of Vendor Services and Contracts at State of Tennessee, "The waste-free formulary list demonstrated to us that, even with the steps we had taken to manage cost and utilization in our pharmacy program, there were still opportunities, with minimal member impact, to achieve additional savings."

A list of 284 wasteful drug formulations indexed by brand name, generic name and NDC code has been created as a shared resource and is available [here](#). All plans should check if their drug formularies contain wasteful drugs. A [guidebook](#) has also been developed to illustrate this process. However, we recognize that existing contracts with PBMs might create complications with removing wasteful drugs from a formulary. Transparent, pass-through contracts can help minimize incentives for PBMs to include wasteful drugs on a formulary (see recommendation #2).

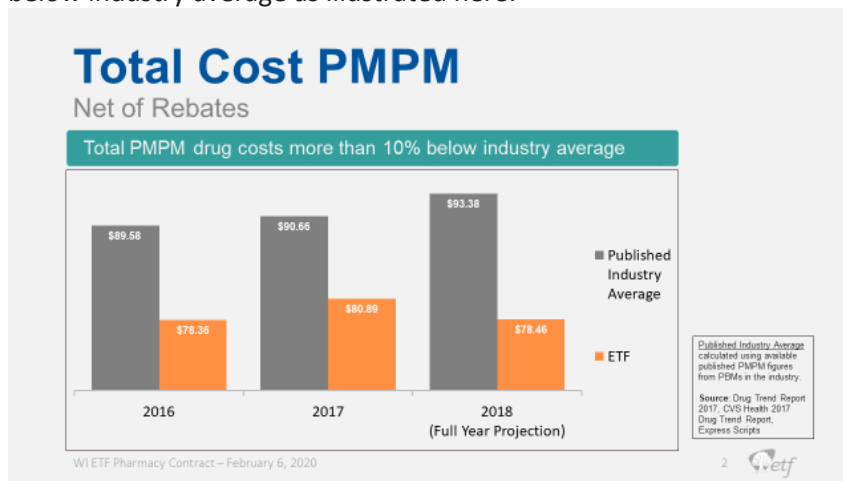
#### Recommendation 2: Utilize transparent pass-through PBM contract terms

States, as major purchasers of drugs for their employee health plans, can control prescription drug costs by negotiating more favorable contract terms with PBMs. Achieving advantageous contract terms with a PBM during the procurement process is a complementary and alternative strategy to the regulation of PBMs through legislation. The National Academy for State Health Policy (NASHP) provides the following resources for model PBM contract terms.

[Model Pharmacy Benefit Manager Contract Terms](#), February 2020. These model contract terms enable states to restrict PBM compensation to an administrative-fee-only model, eliminate spread-pricing, require 100 percent pass-through of rebates, and provides robust transparency for greater monitoring and enforcement.

[Blog: Model Pharmacy Benefit Manager Contract Terms Help States Achieve Prescription Drug Savings](#), January, 2020. This blog explores how states, as major drug purchasers, can leverage their buying power by demanding favorable contract terms with PBMs using NASHP's model PBM contract terms.

The Wisconsin Employee Trust Fund (ETF) implemented a transparent, pass-through PBM and documented a reduction in per-member, per-month (PMPM) drug costs of more than 10% below industry average as illustrated here:



Source: The Wisconsin Pharmacy Cost Study Committee

#### Recommendation 3: Explore implementing a reverse auction PBM procurement model

The MPDAB recommends legislation to enable a reverse auction PBM process for Maine public payers and an analysis of potential savings from such a model. [Six states](#) have passed PBM reverse auction legislation to date. A recent [report](#) by the National Conference of State Legislatures provided bipartisan prescription drug policy recommendations including PBM reverse auctions as a strategy for lowering drug costs. According to the report, "A reverse auction is an online bidding process in which PBMs anonymously compete for the state's business through a portal managed by a third party.

PBMs can view proposals from other firms and adjust their offers during several rounds of bidding.” New Jersey was the first state to operationalize a reverse auction process. New Jersey awarded the combined contracts for the state and school employee health benefits programs to a single PBM in 2019. Over the three-year term of the contract the state projects a savings of more than \$1 billion, reporting a cost decrease of 25% in the first nine months alone.

A [webinar](#) provided by NASHP describes how New Jersey implemented a successful reverse auction. The process of adopting a reverse auction PBM procurement model involves the state or payer contracting with a vendor to conduct the online auction. “Bidding is managed through a technology platform that enables each PBM to see how its bid compares with the highest bid in an anonymous fashion. States achieve savings by forcing PBMs to offer the same contract terms but at a lower price than in preliminary rounds of bidding” according to NASHP.

### **Legislative Strategies:**

In addition to the payer-focused strategies recommended above, the Maine Prescription Drug Affordability Board also recommends that the legislature considers the following legislative strategies:

1. Institute international reference rates  
Canadian drug prices are often a fraction of U.S. prices for the same drugs. By instituting international reference-based pricing, as outlined in model [legislation](#) by the National Academy for State Health Policy, Maine’s Bureau of Insurance could establish Canadian drug prices as reference rates for costly drugs, bringing down prescription drug costs for payers in the state.
2. Prohibit price gouging  
Maine can prohibit manufacturers from hiking prices for generic and off-patent drugs by enacting [legislation](#) which identifies a price increase threshold that triggers action by the Attorney General. Manufacturers engaging in price-gouging would face financial penalties and must stop charging the excessive price.
3. Penalize unsupported price increases  
Net price increases that are unsupported by new clinical data result in over \$1 billion a year in excess spending in the U.S. [Legislation](#) could enable Maine to financially penalize pharmaceutical manufacturers whose drug price increases are unsupported by new clinical evidence. Penalties would be based on in-state sales. This legislation would leverage publicly available data to identify the relevant drugs to minimize administrative burden.

### **Spending Target for Prescription Drugs:**

The MPDAB is responsible for developing spending targets for prescription drugs purchased by Maine public payers based upon a 10-year rolling average of the medical care services component of the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index medical care services index plus a reasonable percentage for inflation and minus a spending target determined by the board for pharmacy savings. The Board will proactively reach out to the Executive Director of the new Office of Affordable Health Care to enable the Board to determine the spending target by December 31, 2022. To meet this goal, the Board will need staffing to support data synthesis and analysis.