

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Improve the Quality and Reduce the Cost of Health Care

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

Sec. 1. 22 MRSA §3174-QQ is enacted to read:

§ 3174-QQ. Pharmaceuticals purchased through 340B covered entities

Beginning January 1, 2012, the department shall coordinate the purchase of prescription drugs for MaineCare members through 340B covered entities in order for the MaineCare program to negotiate the lowest possible prices and avoid retail markup as provided in this section.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "340B covered entity" means an organization eligible for prescription drug discounts under Section 340B of the federal Public Health Service Act, 42 United States Code, Section 256b (1999). "340B covered entity" includes but is not limited to a federally qualified health center, federally qualified health center look-alike, as defined by the United States Department of Health and Human Services, critical access hospital and hospital eligible as a disproportionate share hospital.

B. "Prescription drug" has the same meaning as in Title 32, section 13702A, subsection 30.

2. Calculation and distribution of savings. The department shall work with 340B covered entities that are participating in the MaineCare program under this section and the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to calculate on a quarterly basis the savings attributable to purchasing prescription drugs under this section as compared to the net cost after all applicable rebates that would be paid if the department had not been able to purchase under this section.

Of any savings recognized pursuant to this subsection, 75% must be retained by the department. The remaining 25% must be distributed by the department on a quarterly basis in the following priority.

A. As the first priority, federally qualified health centers and federally qualified health center lookalikes must be reimbursed for copayments due under section 3173C, subsection 7, paragraphs R and S but not paid by the member.

B. As the 2nd priority, the savings must be used by the department to invest in new or existing initiatives to improve the quality of health care as follows:

(1) The department shall direct the first \$400,000 under this paragraph to a statewide association representing federally qualified health centers to assist the centers in achieving accreditation as patient-centered medical homes; and

(2) The department shall direct up to the next \$250,000 to improve medication management and safety as follows:

(a) The department shall direct up to \$150,000 under this division to sponsors of multidisciplinary teams in a patient safety pharmacy collaborative under the directive of the United States Department of Health and Human Services, Health Resources and Services Administration, based on criteria developed by the department after consultation with associations representing federally qualified health centers, hospitals, pharmacies, pharmacists, home health agencies and other entities providing health care; and

(b) The department shall direct up to \$100,000 under this division to 2 sponsors of demonstration projects in medication therapy management in which pharmacies collaborate with 340B covered entities, based on criteria developed by the department after consultation with associations representing federally qualified health centers, pharmacies and pharmacists.

C. As the 3rd priority, the savings must be used by the department to support employees of federally qualified health centers who perform eligibility functions for the department under contract in an amount up to \$400,000.

D. As the 4th priority, the department shall use the balance to support federally qualified health centers for sponsorship of a program to expand access to preventive and primary care in underserved areas through assistance with applying for federal funding to establish a federally qualified health center or financial support for existing federally qualified health centers.

3. Exemption. If the department determines that, for a particular named prescription drug, purchase through 340B covered entities will not produce any savings over purchase by another method, purchase through the 340B covered entity is not required.

4. Rulemaking. The department shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2A.

SUMMARY

This bill directs the Department of Health and Human Services to coordinate the purchase of prescription drugs for MaineCare members through certain organizations eligible for prescription drug discounts under the federal Public Health Service Act, referred to as "340B covered entities," in order for the MaineCare program to negotiate the lowest possible prices and avoid retail markup beginning January 1, 2012. The bill provides a mechanism to calculate savings from establishing the 340B program and

distribute the savings among 340B covered entities. The bill provides for routine technical rulemaking as required to implement the provisions of the bill.