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An Act To Reimburse Pharmacies under the MaineCare Program Based on Wholesale Acquisition Costs

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

Whereas, the adequate reimbursement of pharmacies for dispensing prescription drugs under the MaineCare program is critical to the financial stability of the pharmacies; and

Whereas, as a result of the settlement of litigation in the First DataBank and MediSpan case in which First DataBank and MediSpan were ordered to reduce the average wholesale price used in determining pharmacy reimbursement beginning September 26, 2009 in the federal Medicaid program, pharmacy reimbursement will be suddenly reduced, with the possible result of destabilizing the pharmacies of Maine and patient access to pharmacy services; 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 §3174-PP is enacted to read:

§ 3174-PP. MaineCare pharmacy reimbursement

1. Definition. For the purposes of this section, unless the context otherwise indicates, "wholesale acquisition cost" means the cost of a covered brand name or generic prescription drug based on the size of the package from which the drug is dispensed as reported by the prescription drug pricing service used by the department.

2. Reimbursement rate. The department shall reimburse pharmacies for dispensing brand name and generic prescription drugs covered by the MaineCare program based on a formula that uses the wholesale acquisition cost and that includes a dispensing fee. The formula and pharmacy reimbursement must be calculated using the wholesale acquisition cost plus 6.7% and a dispensing fee of \$3.35 per prescription.

3. Application; retroactivity. The formula and pharmacy reimbursement required under subsection 2 applies retroactively to reimbursements to pharmacies to cover brand name and generic prescription drugs dispensed under the MaineCare program beginning September 26, 2009.

4. Rulemaking. The department shall adopt rules to implement this section no later than July 1, 2010. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

SUMMARY

This bill requires the Department of Health and Human Services to reimburse pharmacies for dispensing covered brand name and generic drugs under the MaineCare program based on a formula that includes calculated wholesale acquisition cost plus 6.7% and a dispensing fee of \$3.35 per prescription and allows the department to adopt routine technical rules. The formula applies to drugs dispensed under the MaineCare program on or after September 26, 2009.