

May 15, 2023

Senator Donna Bailey
Representative Anne Perry
Members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services
100 State House Station
Augusta, ME 04333

Dear Senator Bailey, Representative Perry, and Members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services;

Thank you for the opportunity to comment on LDs 1816 and 1829, two bills that would institute a reference-based cap on the price that pharmacies and state-regulated health plans could pay to purchase certain prescription drugs. I fully agree with sponsors and proponents of this bill that the cost of prescription drugs is a serious problem for consumers, and I support government intervention to address the problem. It is with regret that I opposed these bills, out of concern about how a reference-based pricing program would operate in practice.

In particular, I am concerned about limited power to enforce participation in the program by pharmaceutical manufacturers. While the bills contemplate the levying of penalties should a manufacturer withdraw its product from sale in the State of Maine, it seems likely that manufacturers would continue to sell their product to the payers in the state who are not bound by the reference-price requirements. I am also concerned about how pharmacies, especially independent pharmacies, would be expected to comply with the provision capping the price they may pay for drugs included in the program. Pharmacies typically purchase their supply of prescription drugs from wholesalers, which in turn purchase the drugs from manufacturers. Depending on the pricing dynamic between the reference rate and the acquisition cost for wholesalers, pharmacies may not have the leverage necessary to compel wholesalers to sell to them at, or below, the required maximum price. This issue may be further complicated by the fractured application of the reference-based pricing program, which only applies to state-regulated plans.

Establishing a program like those contemplated in LDs 1816 and 1829 would come at a significant cost to the State. New infrastructure for analysis, monitoring, and enforcement would all need to be established. Before making that investment, policymakers should be confident about the feasibility of implementing the program. The Office of Affordable Health Care has a role in supporting Maine's Prescription Drug Affordability Board, and would welcome engaging with that group and other stakeholders to discuss how the concerns above might be resolved, as well as alternative policy interventions to lower costs for consumers, before the next legislative session.

Again, I am in full support of government intervention to directly address the high price of drugs, and look forward to working with the legislature to develop proposals that can deliver meaningful relief to consumers.

Sincerely,



Meg Garratt-Reed
Executive Director, Office of Affordable Health Care