



**Testimony Neither for Nor Against  
LD 2114, An Act to Improve Patient Access to and Savings from Generic Drugs and Biosimilars**

**Kimberly Cook on behalf of Community Health Options  
February 28, 2024**

Distinguished members of the Health Coverage, Insurance and Financial Services Committee, my name is Kim Cook and I am an attorney and founder of Government Strategies. I represent Community Health Options, Maine's nonprofit CO-OP health insurance company. Community Health Options exists for the benefit of its Members and our mission which is to provide affordable, high-quality benefits that promote health and wellbeing of our Members.

Community Health Options recognizes that generic drugs and biosimilars play an important role in reducing our Members' healthcare expenses and the total cost of care. Under current law, a pharmacist will automatically fill a prescription using the generic drug, when once is available unless the provider has specified otherwise. This approach has proven to be an effective method for ensuring Maine people receive the right treatment at the best cost.

Because generic drugs have the same active ingredients as brand name drugs while meeting the same FDA rules for safety, purity and potency, they present a good option when they cost less than the brand name equivalent. However, the net cost of a generic drug is not always less than the brand name equivalent even if the wholesale acquisition cost is lower. This bill, if enacted as written, could serve to increase health care costs in Maine.

Community Health Options has a program that identifies brand name drugs with associated rebates that reduce the cost to an amount lower than the generic equivalent. When such a drug is identified, our Member pays the cost share associated with the generic drug while Health Options receives the rebate and applies it to premium reductions in future years. As currently written, it appears LD 2114 would disallow this practice. In 2022, Community Health Options received approximately \$7,500,000 in rebates and 100% of that amount was used to offset future premiums.

As currently written, LD 2114 also raises concerns about the sale and marketing of authorized generic prescription drugs, also known as, "branded generics". It is not uncommon for pharmaceutical manufacturers to sell generic versions of their brand-name drugs. Typically, this is done prior to generic drug manufacturers bringing their own iteration of the drug to the



market. The authorized generics tend to cost approximately 90% of the price of the brand-name drug. As such, the wholesale acquisition cost is less than the brand-name drug but, once rebates are applied, the net cost of the brand name drug is lower. LD 2114 could result in consumers receiving authorized “branded generics” even when the brand-name option would be less, thereby increasing costs and eventually premiums.

The design of our plans in the individual, small group, and large group markets demonstrates our belief that generic drugs can reduce the cost of healthcare. For our Members across all lines of business who have not met their annual out of pocket maximum, it is common to be responsible for only a \$5 copay when purchasing preferred generic drugs. Our Members currently have access to hundreds of preferred generic drugs intended to treat a wide range of conditions and Community Health Options consistently works to ensure that the formulary delivers value, provides choices, and reflects the changing availability of generic prescription drugs.

If the committee intends to move forward with this bill, we urge you to amend the bill to ensure the bill language is based on a **lower net cost**, rather than a lower wholesale acquisition cost. If the concern is that patients are being charged a higher co-pay where a brand name drug has a lower net cost, then we urge you to amend the bill to require carriers offer a generic co-pay in situations where a brand name drug is preferred because of its lower net cost. We can attest that this approach benefits our Members both in terms of lower out of pocket costs and in terms of lower premiums.

We appreciate the opportunity to comment on LD 2114 and the Committee’s interest to exploring ways to lower healthcare costs in Maine. We would be happy to answer questions at the work session.