

Janet T. Mills
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Commissioner



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4/29/2025

Senator Bailey, Chair
Representative Mathieson, Chair
Members, Joint Standing Committee on Health Coverage, Insurance, and Financial Services
100 State House Station
Augusta, ME 04333-0100

Re: LD 1580 – *An Act to Prohibit Pharmacy Benefits Managers from Imposing Certain Fees and Pricing*

Senator Bailey, Representative Mathieson and members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services, thank you for the opportunity to provide information in opposition LD 1580, *An Act to Prohibit Pharmacy Benefits Managers from Imposing Certain Fees and Pricing* as drafted, and request clarity that the bill does not apply to MaineCare. We are only providing commentary on the bill insofar as it may apply to MaineCare.

This bill provides that a pharmacy benefits manager may not derive income from pharmacy benefits manager services provided to a carrier or health plan in this State except for income derived from a pharmacy benefits management fee. The pharmacy benefits management fee may not exceed the value of the services actually performed by the pharmacy benefits manager. The bill prohibits so-called spread pricing, which, under the bill, means amounts charged by a pharmacy benefits manager in excess of the ingredient cost for a dispensed prescription drug, the dispensing fee paid to the pharmacy or pharmacist and the pharmacy benefits management fee. The bill establishes additional requirements related to what costs may not be included in the pharmacy benefits management fee. The amounts of any pharmacy benefits management fees must be established in the agreement between the pharmacy benefits manager and the carrier or health plan. The bill requires that pharmacy benefits managers annually certify to the Superintendent of Insurance that they are in compliance with the provisions of the bill.

It is unclear whether or not this bill is intended to apply to MaineCare. As written, the bill would apply to MaineCare because 24-A MRSA §4347 explicitly defines MaineCare as a carrier. However, MaineCare contracts with Change Health Care as a pharmacy benefit administrator, not a pharmacy benefit manager as defined in 24-A MRSA §4347. In other words, MaineCare only pays Change Health Care for the administrative and management services Change Health Care provides: Change Health Care does not take on financial risk or responsibility for broader management of pharmacy related costs such as payment of ingredient costs or dispensing fees. In addition, spread pricing is already prohibited under Medicaid. The Department encourages the committee to amend LD 1580 to explicitly exclude MaineCare. Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Probert".

Michelle Probert
Director

