Consumers for Affordable Health Care

Advocating the right to quality, affordable health care for all Mainers

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Testimony in Support of:
LD 1816, An Act Requiring Reference-based Pricing to Reduce Prescription Drug Costs; and
LD 1829, An Act to Reduce Prescription Drug Costs by Requiring Referenced-based Pricing
May 15th, 2023

Senator Perry, Representative Bailey, and Members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services, thank you for the opportunity to testify in support of LD 1816 and LD 1829

My name is Kate Ende and I am the Policy Director at Consumers for Affordable Health Care, a nonpartisan, nonprofit organization that advocates the right to quality, affordable health care for every person in Maine As designated by Maine's Attorney General, CAHC serves as Maine's Health Insurance Consumer Assistance Program (CAP), which operates a toll-free HelpLine Our HelpLine fields approximately 6,000 calls and emails every year from people across Maine who need help obtaining, keeping, using, or fixing problems with private health insurance or with accessing or affording health care services CAHC also serves as the Ombudsman program for Maine's Medicaid program, MaineCare, and helps people apply for and navigate the enrollment process for MaineCare It is with that background that we provide these comments

The Inflation Reduction Act, passed in 2022, contained several provisions aimed at reducing the costs of prescription drugs, including requiring the Secretary of Health and Human Services (HHS) to negotiate prices for some of the costliest prescription drugs covered by Medicare CMS will select up to ten drugs for negotiation for 2026 The total number of negotiated drugs will increase each year, with 15 additional Part D drugs selected for negotiation for 2027, up to 15 additional Part B or Part D drugs for 2028, and up to 20 additional 20 Part B or Part D drugs for 2029 and subsequent years [1] CMS will select drugs from among the 50 drugs with the highest total Medicare Part D spending and the 50 drugs with the highest total Medicare Part B spending CMS will publish the first list of negotiated "maximum fair prices" for the initial 10 drugs selected for 2026, by September 1, 2024

The Secretary of is required to consider certain criteria when negotiating a maximum fair price (MFP) for a drug, including

- Research and development costs,
- Current costs of production and distribution,

[1] https //www cms gov/files/document/fact-sheet-medicare-drug-price-negotiation-program-initial-guidance pdf

- Federal financial support for novel therapeutic discovery and development related to the drug Data on pending and approved patent applications, exclusivities, and certain other applications and approvals,
- Market data and revenue and sales volume in the US, and
- Information and evidence about alternative treatments, including prescribing information, costs, and comparative effectiveness of therapeutic alternatives

LD 1816 and LD 1829 would allow Maine to use these negotiated rates and apply them to state and private purchasers, and to use the generated savings to help consumers Referencing drug prices to Medicare's Maximum Fair Price will allow consumers to share in the benefits of the Medicare negotiations [2] Although the list of drugs that will be subject to negotiated prices is not yet known, it is expected that the list will include drugs that are costly to private health insurance plans and state purchasers, like state employee health plans and retirement systems [3]

The Maine Health Data Organization (MHDO) found that, over a twelve-month period ending on June 30, 2022, **more than $757 million dollars were spent in Maine on just 25 of the costliest prescription drugs**, which is nearly $72 million **more** than was spent on the 25 costliest drugs in Maine the previous year [4] The amount spent in Maine for just one of these drugs, Eliquis, exceeded $93 million dollars, which is nearly $17 million **more** than was spent on Eliquis in Maine during the previous 12-month period [5] Experts predict that Eliquis will likely be one of the first ten drugs selected by CMS for price negotiation [6]

Too often we hear from Mainers though our HelpLine who are struggling to afford the prescription drugs they need, some of which are forced to make difficult choices between paying for medicine and being able to provide for their families and put food on the table or gas in their tank Recent polling of Maine voters found

- More than half of Mainers are concerned about not being able to afford a prescription drug or medicine they need
- One in four Mainers, cut pills in half, skipped doses of mediation, or delayed or did not fill a prescription due to cost
- Four out of ten Mainers with medical debt say prescription drug costs contributed to their debt [7]

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[2] https //nashp org/new-nashp-model-legislation-supports-state-efforts-to-lower-drug-costs-by-leveraging-medicare-negotiations/

[3] https //nashp org/new-nashp-model-legislation-supports-state-efforts-to-lower-drug-costs-by-leveraging-medicare-negotiations/

[4] https //mhdo maine gov/tableau/prescriptionReports cshtml

[5] Ibid

[6] https //www healthaffairs org/content/forefront/which-drug-prices-medicare-negotiate-first-physicians-perspective# ~ text=The%20legislation%20requires%20the%20Secretary%20of%20Health%20and,which%20the%20drug%20is%20their%20only%20major%20agent

[7] https //www mainecahc org/wp-content/uploads/2023/05/Polling-Views-of-Maine-Voters-On-Health-Care-Affordability pdf

The Maine Prescription Drug Board (MPDAB) identified the new Medicare maximum fair prices "as an opportunity for Maine to leverage the work of the federal government," and recommended Maine adopt maximum fair prices as reference rates to set upper payment limits for selected drugs sold in Maine [8] LD 1816 and LD 1829 implement this MPDAB recommendation and ensure that Mainers who are not enrolled in Medicare will still be able to benefit from the maximum fair prices for selected drugs negotiated for Medicare It is worth noting that, due to the limited number of drugs that will be selected for negotiation for Medicare, the MPDAB also recommends that Maine "institute Medicare reference rates supplemented by Canadian reference rates where domestic MFPs are not available, to maximize savings "[9] Due to the large number of drugs that have price tags too high for Mainers to afford, CAHC also supports using Canadian reference rates to supplement Medicare-based reference rates, when a Medicare MFP is not available for a drug

While we may not know the exact amount of savings that are likely to result from implementing Medicare reference- based pricing for negotiated drugs, since CMS has not released the first list of selected drugs or the negotiated prices for those drugs yet, we expect savings in Maine would be substantial, based on the estimated savings from IRA drug negotiation provisions, which are expected to save Medicare $98 5 billion over ten years [10]

Under these bills, participating plans must submit a report to the Superintendent of Insurance indicating how much they saved by utilizing Medicare reference rates and how they passed those savings on to consumers Self-insured plans that elect to opt-in to the program must also accept these terms as conditions for their voluntary participation In determining how to utilize savings, purchasers are required to consider measures that will promote health equity by addressing disparities across communities [11] To ensure the savings from reference rates are used in a manner that maximizes benefits to consumers, we respectfully suggest the Committee consider adding a process for the Bureau of Insurance to solicit stakeholder feedback on how carriers utilize savings, including any initiatives aimed at addressing health disparities across communities This will further ensure that savings are passed on to consumers in ways that meaningfully improve prescription drug affordability for individuals, as well as promote health equity in our state

Opponents to this bill may argue that allowing Mainers to access Medicare negotiated prices will stifle innovation or significantly reduce Maine people's access to new medicines However, we believe these claims are a gross exaggeration levied to scare off policymakers from any attempt to hold the pharmaceutical industry accountable for charging unaffordable and unjustifiably high prices for prescription drugs The nonpartisan Congressional Budget Office (CBO) estimated that all of the IRA drug pricing provisions, including but not limited to negotiated prices for select Medicare drugs, will have a minimal impact on the development

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[8] https //www maine gov/bhr/oeh/sites/maine gov bhr oeh/files/inline-files/2022%20Prescription%20Drug%20Affordability%20Board%20Annual%20Report pdf

[9] Ibid

[10]

[11] https //nashp org/qa-a-model-act-to-reduce-prescription-drug-costs-using-reference-based-pricing/

and availability of new drugs in the U S , estimating a mere 1% reduction in the number of new drugs that will hit the U S market over the next 30 years [12] And, again, this is the cumulative impact of several different prescription drug pricing provisions implemented at the federal level This makes it very difficult to imagine how extending this one provision to more people in Maine could have any meaningful impact on access to medicines in Maine, that is other than making select prescription drugs more affordable

No Mainer should go without the medication they need due to costs It is clear that Maine people, as well as the State of Maine, would greatly benefit from utilizing the Medicare negotiated prices for selected prescription drugs For these reasons, I strongly urge you to support LD 1816 and LD 1829 Thank you and I'd be happy to answer any questions

[12] https //www kff org/medicare/issue-brief/explaining-the-prescription-drug-provisions-in-the-inflation-reduction-act/#bullet01