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Testimony of Rep. Kristen Cloutier presenting

LD 1053, An Act to Ensure That Rebates from Prescription Drug Manufacturers Are Passed on to Patients at Pharmacies

Before the Joint Standing Committee on Health Coverage, Insurance and Financial Services

Senator Bailey, Representative Gramlich and distinguished members of the Health Coverage, Insurance and Financial Services Committee, my name is Kristen Cloutier, and I represent House District 94, which includes part of my hometown of Lewiston. I am pleased to present **LD 1053, An Act to Ensure That Rebates from Prescription Drug Manufacturers Are Passed on to Patients at Pharmacies**.

To begin, let me offer some background. In 2019, the legislature enacted a law requiring insurers or pharmacy benefit managers (PBMs) to apply compensation from drug manufacturers – including rebates – in one of two ways. Either:

1. Applied at the pharmacy to directly lower a patient's out-of-pocket costs for their prescription medicines, or
2. Passed on to and retained by the insurer, but used to reduce premiums for all covered individuals

The bill before you today, LD 1053, proposes to eliminate the second option, which would in turn require the rebates to be used to lower patients' out of pocket spending on their prescriptions. I want to offer an example of how this would work and why it would make a difference for patients in our communities.

If a patient is enrolled in a high deductible health plan with a copay for medicine after their deductible is met, and they take a medicine with a list price of $200, their health plan receives a rebate of $100. As the law stands today, the insurer and PBM do not need to share any of the rebate with the patient at the pharmacy, and they often don't. This means that during their deductible phase, the patient will have to pay $200 for their prescription, even though their health plan only pays $100.

LD 1053 would require that the $100 rebate the PBM or health plan receives be shared with the patient when they purchase the prescription. As a result, instead of paying $200 for their medicine, the patient will pay no more than $100.

With lower out-of-pocket costs, patients may be more likely to take their medication as prescribed by their doctor, which can result in better health outcomes, and potentially avoid emergency room visits, hospital stays and other costlier services. If the patient has a plan with coinsurance, they would also benefit, as coinsurance is typically calculated based on the list, not net, price of a drug.

The Office of Affordable Health Care's (OAHC) 2023 Annual Report[1] contained consumer polling data showing that almost 70% of Mainers surveyed believe that just one major medical event could cause financial disaster. 55% stated that they were much more likely to get recommended medical services or prescription drugs if their deductibles or out-of-pocket costs weren't so high.

LD 1053 can improve transparency and provide our constituents with real savings, because we can ensure that Mainers aren't paying more for their prescriptions than their PBM or insurer.

I expect that some opponents will argue that the choice of what to do with compensation from manufacturers should be left to the parties involved. I would point, however, to a Bureau of Insurance report from December 2024[2] showing that of the nearly $150 million in compensation that insurers and PBMs received from manufacturers in 2023, they shared just 0% to 6.5% of that remuneration to patients at the point of sale. These figures decreased from 2022, when they passed on up to 11%.

Additionally, I am sure you will hear that passing this bill will raise premiums. We should look to West Virginia, Arkansas and Indiana – each of which passed laws requiring rebate pass-through – where there has been no meaningful impact on premiums, according to at least two studies.[3]

What is clear from all of this is that PBMs and insurers can, and yet choose not to, apply these savings to patients' out of pocket costs.

This legislation represents a straightforward solution to a complex problem. By requiring that manufacturer rebates be passed directly to patients at the pharmacy counter, we can provide immediate relief to those who need it most. This approach is particularly critical for Mainers with chronic conditions who require ongoing medication and face substantial out-of-pocket costs even with insurance coverage.

Before I close, I want to note that I plan to present an amendment to the bill at the work session. Because negotiations with stakeholders are ongoing, it was not ready for the public hearing today. The amendment would address a concern raised in the 131st legislative session when this committee considered similar legislation, LD 1165, regarding its impact on ERISA (Employee Retirement Income Security Act of 1974) plans. Specifically, it includes a provision that excludes

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[1] Maine office of Affordable Health Care 2023 Annual Report. December 31, 2023. Available at: https://www.maine.gov/oahc/sites/maine.gov.oahc/files/meetins/2024-04/OAHC%202023%20Annual%20Report.pdf?utm_source=chatgpt.com.

[2] Maine Bureau of Insurance. "2023 Annual Report on Prescription Drug Compensation for the Benefit of Covered Persons." December 2024.

[3] Klein, Michelle; Holzer, Hanna. *Premium Impacts of POS Rebate Implementation in the ACA Market in the State of Arkansas*. Milliman. January 2024; Robb, Michelle; Holzer, Hanna. *Premium Impacts of POS Rebate Implementation in the ACA Market in the State of Indiana*. Milliman. January 2025.

ERISA-governed self-insured plans from the bill's requirements. This clarification ensures that the legislation applies only to state-regulated plans, leaving employer self-funded plans unaffected.

I urge the committee to support LD 1053 and take this important step toward making prescription medications more affordable for all Maine people.

Thank you for your consideration, and I would be happy to answer any questions.