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**Testimony In Opposition to LD 1053**
An Act to Ensure That Rebates from
Prescription Drug Manufacturers Are Passed on to Patients at Pharmacies

March 27, 2025

Senator Bailey, Representative Gramlich, and Members of the Health Coverage, Insurance, and Financial Services Committee.

My name is Dan Demeritt, the Executive Director of the Maine Association of Health Plans. Insurance coverages offered or administered by our member plans provide access to care and better outcomes for many of the Mainers who receive coverage through an employer plan or the individual market. Our mission as an association is to improve health by promoting affordable, safe, and coordinated health care.

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The Maine Association of Health Plans is opposed to LD 1053 and provides the following information on existing consumer protections, recent transparency improvements, and potential impacts on premiums for the Committee's consideration.

**Prescription Drug Compensation MUST Reduce Out-of-Pocket or Premium Costs**

Current law in Maine requires that all pharmaceutical rebates must be applied to lower costs, either at the point of sale to lower out-of-pocket costs or used to lower premiums for all members covered by the health plan. This important plan design tool and choice should be left to the parties involved instead of being mandated by state law.

LD 1053 would eliminate design choice for employers who prefer lower premiums.

The two cost-saving options – lower premiums or point-of-sale reductions – were developed through comprehensive discussion in the 119th Legislature. The resulting statute also tasks carriers with providing the Superintendent of the Bureau of Insurance with an annual compliance report.

Additionally, health insurance carriers' products, rates, and networks are subject to regulatory review and approval. The health plan pharmacy spending trend is also subject to disclosure and scrutiny as part of the annual rate review process.

**Improved Transparency**

My testimony includes the *"2023 Annual Report on Prescription Drug Compensation for Benefit of Covered Persons* prepared by the Maine Bureau of Insurance (December 2024).[1]

The Bureau added several new questions to its annual survey sent to the carriers based on requests the Health Coverage, Insurance, and Financial Services Committee had when considering a version of this legislation in the131st Legislature. New data in the 2023 report include:

- Total paid for drug claims involving prescription drug compensation (p.4)
- Total paid for all claims other than compensated prescription drugs (p.4)
- Average percent of premium for prescription drugs in fully-insured plans (p.5)
- Premium impact if all compensation passed on at point of sale (p.5)
- Rebates calculated as a percentage of Rx expenditures (p.6)

**Impact on Premiums – More than $40 PMPM**

LD 1053 eliminates the ability of health plans to use rebates to lower premiums.

For 2023 most carriers report to the Bureau of Insurance that approximately one quarter of their premium was devoted to prescription drug claims and all carriers confirm that premiums would increase if their rebate amounts were applied exclusively to the consumer at the point of sale.

Many of the responding carriers provided the Bureau with an estimate of monthly premium impact associated with restricting all prescription drug compensation to the point of sale. Every monthly projection suggests at least $40 Per-Member-Per-Month in additional premium and as much as $100 or more.

Maine carriers processed $422 million in prescription drug claims involving pharmaceutical manufacturer compensation in 2023.[2] Requiring that all rebates be processed at the point of sale would increase administrative costs in terms of tracking across the supply chain and reconciling rebates with cost sharing at the point of sale.

Thank you for your consideration. We urge a vote of ought-not-to-pass on LD 1053.

[1] https://www.maine.gov/pfr/sites/maine.gov.pfr/files/inline-files/2023-Annual-Report-Prescription-Compensation.pdf

[2] Sum of responses to question 4, BOI's 2023 Annual Report on Prescription Drug Compensation


# 2023 Annual Report on Prescription Drug Compensation for Benefit of Covered Persons

Prepared by the Maine Bureau of Insurance

December 2024

Janet T. Mills
Governor

Joan F. Cohen
Acting Commissioner

Robert Carey
Superintendent

## Introduction

Under 24-A M.R.S., § 4350-A, carriers must file an annual report with the Superintendent, demonstrating how they used compensation from a pharmaceutical manufacturer, developer or labeler to benefit their members during the previous calendar year. This report is for calendar year 2023.

For 2023, the Bureau of Insurance added several new questions to the annual survey sent to carriers, as displayed below. These additional questions were developed in response to the Health Coverage, Insurance, and Financial Services Committee of the 131st Legislature's request for more specific information about claims and the costs of prescription drug coverage.

The Bureau received responses from Aetna Life Insurance Company, Aetna Health, Inc., Cigna Health and Life Insurance Company, Anthem of Maine, Community Health Options, Harvard Pilgrim Health Care and HPHC Insurance Company (combined), Taro Health, United Healthcare of New England, United Health Care Insurance Company, and Wellfleet Insurance Company (which provides student health plans in Maine). To protect the confidentiality of company information, we have assigned each carrier a random letter as indicated in the charts below.

## Statutorily Required Questions and Carrier Answers

1) The total amount in Rx rebates the company, as a carrier[1], or a pharmacy benefits manager (PBM) that the carrier contracts with, received directly or indirectly from any pharmaceutical manufacturer, developer or labeler:

| | |
|---|---|
| Carrier A | $65,542,877 |
| Carrier B | $450,170 |
| Carrier C | $3,126,832 |
| Carrier D | $49,858,027 |
| Carrier E | $17,732,439 |
| Carrier F | $6,765,915 |
| Carrier G | $109,564 |
| Carrier H | $325,634 |
| Carrier I | $4,750,587 |
| Carrier J | $74,154 |

[1]Carrier is defined by 24-A M.R.S. § 4347 as follows:

> **Carrier.** "Carrier" has the same meaning as in section 4301-A, subsection 3, except that "carrier" does not include a multiple-employer welfare arrangement, as defined in section 6601, subsection 5, if the multiple-employer welfare arrangement contracts with a 3rd-party administrator to manage and administer health benefits, including benefits for prescription drugs. "Carrier" also includes the MaineCare program pursuant to Title 22, chapter 855 and the group health plan provided to state employees and other eligible persons pursuant to Title 5, section 285.

2) The percentage of each above amount that was remitted directly to a covered person at the point of sale and an explanation of the methods by which the company is providing this amount directly to covered persons:

| | | |
|---|---|---|
| Carrier A | 2.2% | For claims where a rebate is generated, the allowed amount is reduced by the rebate prior to cost share determination. The cost share is applied to the reduced amount, therefore deductible claims get the full rebate, coinsurance claims get a share of the rebate, and copay claims may experience savings if the allowed amount is less than the copay. |
| Carrier B | 6.5% | At the point of sale, a calculation is done to see if the member's liability per the members' benefit is greater than the cost of the drug less an estimated rebate amount. If it is less, the member pays the cost of the drug less an estimated rebate in place of the normal member liability. |
| Carrier C | 5.8% | At the point of sale, a calculation is done to see if the member's liability per the member's benefit is greater than the cost of the drug less an estimated rebate amount. If it is, the member pays the cost of the drug less an estimated rebate in place of the normal member liability. |
| Carrier D | 0.00% | RX Rebates are not applied directly to covered persons at the point of sale. |
| Carrier E | 0.00% | N/A |
| Carrier F | 0.00% | N/A |
| Carrier G | 0.00% | Rebates are not applied at point of sale/ provided directly to covered persons. Rebates are retained by the plan to offset future premiums. |
| Carrier H | 1.00% | At point of sale, rebates are applied to reduce the total cost of the drug before member cost share is calculated. |
| Carrier I | 4.00% | At point of sale, rebates are applied to reduce the total cost of the drug before member cost share is calculated. |
| Carrier J | 0.0% | N/A |

3) The percentage of the amount that was applied to its plan design to offset premium in future years and an explanation of how the company is applying these funds to offset premium in future years:

| | | |
|---|---|---|
| Carrier A | 97.8% | Assumed prescription drug rebates are included in the rate development process for the Individual, Small Group and Large Group segments and factored in as a reduction to claims (for the individual and small group markets) or a reduction in administrative expense (in the large group market) in developing premium rates. Both approaches result in a reduction of premium. |
| Carrier B | 93.5% | Rebates retained by the health plan are used as an input in determining what the premiums in the future years will be. |
| Carrier C | 94.2% | Rebates retained by the health plan are used as an input in determining what the premiums in the future years will be. |
| Carrier D | 100% | 100% of Rx rebates are applied to plan design to offset the premium in future years. For the small group and individual markets, Rx rebates are credited as an offset to pharmacy claims directly in the rate development process thereby reducing premiums to all covered members. In our large group market, Rx rebates are reflected in the premium through the underwriting process. Note that when setting premiums, we project pharmacy rebates based on future expectations. This may not exactly match the pharmacy rebates received during the year. There is also uncertainty inherent in estimating pharmacy rebates in a given year. |
| Carrier E | 100% | 100% of manufacturer compensation received by us and our PBM for individual and small group business is applied to offset future premiums. Premiums in the pricing period are based on the claims experience in the experience period adjusted forward to the pricing period for trend, benefit and cost-sharing differences, changes in network contract terms, changes in membership demographics, retention, etc. For example, premiums in the pricing period 1/1/2023-12/31/2023 were based on claims experience from 1/1/2021-12/31/2021 with adjustments as previously mentioned. The claims experience in the experience period is net of pharmacy rebates received for the pharmacy claims incurred in that period. |

| | | |
|---|---|---|
| Carrier F | 100% | The rebate funds will continue to be used at 100% to reduce premiums through the pricing and underwriting premium development. |
| Carrier G | 100% | Rebates are applied back to the plan to reduce claim costs. |
| Carrier H | 99.00% | In calculation of premium, the value of rebates is considered in the administrative component of the calculation. |
| Carrier I | 96.00% | In calculation of premium, the value of rebates is considered in the administrative component of the calculation. |
| Carrier J | 100% | The amount in Question 1 will be factored into the premium rate calculations for Plan Year 2025. These funds will be used to offset administrative costs. Our hope is that lower administrative costs will lead to lower premiums in future years. |

**New Questions and Responses for 2023**

4) The total amount paid for prescription drug claims involving drugs for which your company received compensation directly or indirectly from any pharmaceutical manufacturer, developer or labeler:

| | |
|---|---|
| Carrier A | $206,304,011 |
| Carrier B | $562,660 |
| Carrier C | $6,334,177 |
| Carrier D | $96,669,438 |
| Carrier E | $63,974,406 |
| Carrier F | $34,039,665 |
| Carrier G | $745,539 |
| Carrier H | $1,075,447 |
| Carrier I | $12,343,532 |
| Carrier J | $149,262 |

5) The total amount paid for all claims other than those involving prescription drugs for which your company received compensation directly or indirectly from any pharmaceutical manufacturer, developer or labeler:

| | |
|---|---|
| Carrier A | $669,097,932 |
| Carrier B | $1,533,326 |
| Carrier C | $32,480,927 |
| Carrier D | $375,591,802 |

| | |
|---|---|
| Carrier E | $203,460,589 |
| Carrier F | $85,492,641 |
| Carrier G | $1,538,648 |
| Carrier H | $2,983,510 |
| Carrier I | $36,728,836 |
| Carrier J | $1,522,599 |

6) The average percentage of premium devoted to prescription drugs coverage involving your company's fully-insured plans:

| | |
|---|---|
| Carrier A | 23.3% |
| Carrier B | 26.8% |
| Carrier C | 16.3% |
| Carrier D | 19.2% |
| Carrier E | 5.3% |
| Carrier F | 16.6% |
| Carrier G | 23% |
| Carrier H | 21.5% |
| Carrier I | 21.5% |
| Carrier J | 20% |

7) The amount of average premium increase for fully-insured plans if the compensation identified in Question 1 were passed along to the consumer at the point of sale:

| | |
|---|---|
| Carrier A | $45.73 PMPM. The estimated premium impact for directly applying all pharmacy rebates at Point of Sale (POS) is around 7%. We reallocated the Rx rebate traditionally used to lower overall premiums towards direct relief of individual members' drug costs, and account for the potential for altered member purchasing behaviors influenced by immediate savings on drug cost. It is important to note that the entire amount identified in response to Question 1 cannot be passed through at the POS because no rebates would be paid in instances where the rebate exceeded the applicable cost share or the member has met their out-of pocket maximum. In such cases, the excess rebate amount will not be refunded to the member nor will it be used to lower the future premiums cost as we do today. |
| Carrier B | $ 99.32 PMPM. We determined the projected increase in premium by determining the 2023 PBM savings on a PMPM basis and then applying the appropriate retention costs on top of these savings. We have not applied trend so these estimates are for 2023 only. |
| Carrier C | $42.97 PMPM. We determined the projected increase in premium by determining the 2023 PBM savings on a PMPM basis and then applying the appropriate retention costs on top of these savings. We have not applied trend so these estimates are for 2023 only. |

| | |
|---|---|
| Carrier D | The impact of point of sale Rx rebates depends on how the program is administered, the type and level of member cost sharing and the extent to which Rx rebates are used to offset member cost sharing in practice. The Rx rebates passed through to consumers at point of sale would result in commensurately higher premium in the market. |
| Carrier E | The claims utilized in pricing is currently net of rebates identified in Question 1. If the rebates were to the consumer at the point of sale, the starting claims experience would be higher and therefore, would ultimately increase the average premium for most insured plans. |
| Carrier F | 0.8% PMPY. This could have a wide range of impact depending on the plan design. For example, a plan that uses copays only on pharmacy is going to have a negligible impact because lowering the cost at the point of sale doesn't change the member's copay, while a member with a large deductible could get the full amount of the rebate until their deductible is satisfied. Our average estimated impact is an increase of 0.8% on a PMPY basis to premium. |
| Carrier G | $80.00 PMPY. Claim costs would be increased by about 4%-which would cause premiums to increase by about 4%-which would be about $80 per year. |
| Carrier H | $46.70 PMPM. The premium would increase by the compensation amount reported in Question 1 if the amount was passed through to the consumer at the point of sale. |
| Carrier I | $58.48 PMPM. The premium would increase by the compensation amount reported in Question 1 if the amount was passed through to the consumer at the point of sale. |
| Carrier J | $134.82 PMPY. This amount is PMPY based on the 2023 total rebates divided by total members as of 12/31/2023. This assumed amount passed along to consumers would be commensurate to the 2023 experience on a per member basis. |

**Rebates calculated as a percentage of Rx expenditures.**

| | |
|---|---|
| Carrier A | 32% |
| Carrier B | 80% |
| Carrier C | 49% |
| Carrier D | 51% |
| Carrier E | 28% |
| Carrier F | 20% |
| Carrier G | 50% |
| Carrier H | 30% |
| Carrier I | 38% |
| Carrier J | 50% |

**Summary**

Four carriers reported that they applied 100% of the amount received directly or indirectly from any pharmaceutical manufacturer, developer or labeler to its plan design to offset future premiums. Five carriers reported that less than 100% of the amount is applied to offset future premiums, but these amounts were small. In each of those cases, the remaining amounts were applied to lower the cost of the drug prior to the sale to the consumer.

The new questions reveal a significant amount spent on prescription drugs as opposed to other claims. Most carriers reported that approximately one quarter of their premium was devoted to prescription drug claims. All carriers confirmed that their premiums would increase if their respective rebate amounts were applied exclusively to consumers at the point of sale.