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Testimony in Opposition to LD 1018
An Act to Protect Health Care for Rural and Underserved Areas
by Prohibiting Discrimination by Participants in a Federal Drug Discount Program
April 16, 2025

Senator Bailey, Representative Mathieson, 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.

The federal 340B drug pricing program has grown to be incredibly complex for participants and adds to the opaqueness of prescription drug pricing for consumers, purchasers and policymakers. We generally favor more transparency around 340B pricing and believe the many prohibitions in LD 1018 are a step in the wrong direction.

The bill as proposed could potentially create ambiguity, administrative challenges and unnecessary barriers to the orderly processing and timely payment of claims. It may also present barriers to the development of cost-effective pharmacy networks.

If the Committee is interested in advancing this bill, we urge it to allow time for bill proponents to work with health plans to address technical and operational concerns before the work session.

Examples of Terms and Conditions To Address

§7704(2)(E). 340B claims are not eligible for pharmaceutical manufacturer rebates. To ensure these claims are processed correctly and that rebates are not applied, health plans may require Hospital Specialty Pharmacy Providers to include identification, billing modifiers, attestation or other indicators that a drug is a 340B drug to be processed, submitted, or reimbursed. A prohibition on the use of modifiers would place an administrative burden on carriers and create challenges in financial reporting. It should be removed from the bill.

§7704(3). Reversal, resubmission or clarification of claims prohibited: The section is overly broad. The normal course of pharmacy business could include adjustments related to 340B drug pricing. As proposed, this provision prevents the carrier from removing submission clarification codes to reprocess the claims.

§7704(4). Discrimination against 340B entity that interferes with patient choice: The language in this section is ambiguous and does not reflect operational realities. A member could be

prevented from receiving a drug from a 340B covered entity if the pharmacy is out of network. Furthermore, the use of the word "choice" assumes pharmacy staff has an awareness that the drug being used is being dispensed as a 340B drug.

§7704(5). Discrimination against 340B entity that interferes with patient choice of delivery method: As is the case with the above reference, this section could be broadly interpreted to prevent a carrier from operations within their normal course of action. Adding the following provision to sections §7704. 4 & 5 would provide important clarity: *". . . that differs from the terms and conditions applied to entities that are not 340B entities or pharmacies that are not 340B contact pharmacies,"*

§7704(6). Restrictions or additional charges prohibited: We would suggest additional language here to include, *"if such restriction or additional change differs form the terms and conditions applied where patients choose to receive drugs that are not 340B drugs from an entity that is not a 340B entity or from a pharmacy that is not a 340B contact pharmacy."*

§7706. Enforcement. This section provides that violations are violations of the Unfair Trade Practices Act and creates a private right of action. Carriers are regulated entities, and the Bureau of Insurance can enforce compliance with Maine law. As a result, this provision is not needed to ensure or enforce compliance and should be removed.

While we do not believe LD 1018 is necessary, we would welcome the chance to collaborate with proponents to address ambiguities and reduce the administrative burdens that would be introduced if the bill moves forward as proposed.

Thank you for your consideration.