

§2042. Powers and duties of the board

1. Prescription drug spending targets. The board has the following powers and duties. For the purposes of this section, the term "public payor" means any division of state, county or municipal government that administers a health plan for employees of that division of state, county or municipal government or an association of state, county or municipal employers that administers a health plan for its employees, except for the MaineCare program. The board shall:

A. Beginning for the year 2021 and in consultation with the advisory council established under section 2041, subsection 10, determine annual spending targets for prescription drugs purchased by public payors based upon a 10-year rolling average of the medical care services component of the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index medical care services index plus a reasonable percentage for inflation and minus a spending target determined by the board for pharmacy savings; [PL 2021, c. 293, Pt. A, §5 (RPR).]

B. Determine spending targets on specific prescription drugs that may cause affordability challenges to enrollees in a public payor health plan; and [PL 2021, c. 293, Pt. A, §5 (RPR).]

C. Determine which public payors are likely to exceed the spending targets determined under paragraph A. [PL 2021, c. 293, Pt. A, §5 (RPR).]
[PL 2021, c. 293, Pt. A, §5 (RPR).]

2. Prescription drug spending data. The board may consider the following data to accomplish its duties under this section:

A. A public payor's prescription drug spending data, which the 3rd-party administrator or insurer for the public payor's health plan shall provide to the board on behalf of the public payor upon request notwithstanding any provision of law to the contrary, including:

- (1) Expenditures and utilization data for prescription drugs for each plan offered by a public payor;
- (2) The formulary for each plan offered by a public payor and prescription drugs common to each formulary;
- (3) Pharmacy benefit management services and other administrative expenses of the prescription drug benefit for each plan offered by a public payor; and
- (4) Enrollee cost sharing for each plan offered by a public payor; and [PL 2021, c. 293, Pt. A, §5 (RPR).]

B. Data compiled by the Maine Health Data Organization under Title 22, chapter 1683. [PL 2021, c. 293, Pt. A, §5 (RPR).]

Prescription drug spending data provided to the board under this subsection is confidential to the same extent it is confidential while in the custody of the entity that provided the data to the board.

[PL 2021, c. 293, Pt. A, §5 (RPR).]

3. Recommendations. Based upon the prescription drug spending data received under subsection 2, the board, in consultation with a representative of each public payor identified under subsection 1, paragraph A, shall determine methods for the public payor to meet the spending targets established under subsection 1. The board shall determine whether the following methods reduce costs to individuals purchasing prescription drugs through a public payor and allow public payors to meet the spending targets established under subsection 1:

A. Negotiating specific rebate amounts on the prescription drugs that contribute most to spending that exceeds the spending targets; [PL 2021, c. 293, Pt. A, §5 (RPR).]

B. Changing a formulary when sufficient rebates cannot be secured under paragraph A; [PL 2021, c. 293, Pt. A, §5 (RPR).]

C. Changing a formulary with respect to all of the prescription drugs of a manufacturer within a formulary when sufficient rebates cannot be secured under paragraph A; [PL 2021, c. 293, Pt. A, §5 (RPR).]

D. Establishing a common prescription drug formulary for all public payors; [PL 2021, c. 293, Pt. A, §5 (RPR).]

E. Prohibiting health insurance carriers in the State from offering on their formularies a prescription drug or any of the prescription drugs manufactured by a particular manufacturer when the methods described in paragraph B or C are implemented; [PL 2021, c. 293, Pt. A, §5 (RPR).]

F. Purchasing prescription drugs in bulk or through a single purchasing agreement for use among public payors; [PL 2021, c. 293, Pt. A, §5 (RPR).]

G. Collaborating with other states and state prescription drug purchasing consortia to purchase prescription drugs in bulk or to jointly negotiate rebates; [PL 2021, c. 293, Pt. A, §5 (RPR).]

H. Allowing health insurance carriers providing coverage to small businesses and individuals in the State to participate in the public payor prescription drug benefit for a fee; [PL 2021, c. 293, Pt. A, §5 (RPR).]

I. Procuring common expert services for public payors, including but not limited to pharmacy benefit management services and actuarial services; and [PL 2021, c. 293, Pt. A, §5 (RPR).]

J. Any other method the board may determine. [PL 2021, c. 293, Pt. A, §5 (RPR).]
[PL 2021, c. 293, Pt. A, §5 (RPR).]

4. Report. The board shall report its recommendations, including prescription drug spending targets, and the progress of implementing those recommendations to the joint standing committee of the Legislature having jurisdiction over health coverage and insurance matters no later than October 1, 2020 and on January 30th annually thereafter. The joint standing committee may report out legislation based upon the report.

[PL 2021, c. 293, Pt. A, §5 (RPR).]

SECTION HISTORY

PL 2019, c. 471, §1 (NEW). PL 2019, c. 472, §1 (NEW). PL 2021, c. 293, Pt. A, §5 (RPR).

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