

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SIXTEEN

H.P. 788 - L.D. 1150

**An Act Regarding Maximum Allowable Cost Pricing Lists Used by
Pharmacy Benefit Managers**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24-A MRSA §4317, sub-§12 is enacted to read:

12. Maximum allowable cost. This subsection governs the maximum allowable cost for a prescription drug as determined by a pharmacy benefits manager.

A. As used in this subsection, "maximum allowable cost" means the maximum amount that a pharmacy benefits manager pays toward the cost of a prescription drug.

B. A pharmacy benefits manager may set a maximum allowable cost for a prescription drug, or allow a prescription drug to continue on a maximum allowable cost list, only if that prescription drug:

(1) Is rated as "A" or "B" in the most recent version of the United States Food and Drug Administration's "Approved Drug Products with Therapeutic Equivalence Evaluations," also known as "the Orange Book," or an equivalent rating from a successor publication, or is rated as "NR" or "NA" or a similar rating by a nationally recognized pricing reference; and

(2) Is not obsolete and is generally available for purchase in this State from a national or regional wholesale distributor by pharmacies having a contract with the pharmacy benefits manager.

C. A pharmacy benefits manager shall establish a process for removing a prescription drug from a maximum allowable cost list or modifying a maximum allowable cost for a prescription drug in a timely manner to remain consistent with changes to such costs and the availability of the drug in the national marketplace.

D. With regard to a pharmacy with which the pharmacy benefits manager has entered into a contract, a pharmacy benefits manager shall:

(1) Upon request, disclose the sources used to establish the maximum allowable costs used by the pharmacy benefits manager;

(2) Provide a process for a pharmacy to readily obtain the maximum allowable reimbursement available to that pharmacy under a maximum allowable cost list; and

(3) At least once every 7 business days, review and update maximum allowable cost list information to reflect any modification of the maximum allowable reimbursement available to a pharmacy under a maximum allowable cost list used by the pharmacy benefits manager.

E. A pharmacy benefits manager shall provide a reasonable administrative appeal procedure, including a right to appeal that is limited to 14 days following the initial claim, to allow pharmacies with which the pharmacy benefits manager has a contract to challenge maximum allowable costs for a specified drug.

F. The pharmacy benefits manager shall respond to, investigate and resolve an appeal under paragraph E within 14 days after the receipt of the appeal. The pharmacy benefits manager shall respond to an appeal as follows:

(1) If the appeal is upheld, the pharmacy benefits manager shall make the appropriate adjustment in the maximum allowable cost and permit the challenging pharmacy or pharmacist to reverse and rebill the claim in question; or

(2) If the appeal is denied, the pharmacy benefits manager shall provide the challenging pharmacy or pharmacist the national drug code from national or regional wholesalers of a comparable prescription drug that may be purchased at or below the maximum allowable cost.

G. The requirements of this subsection apply to contracts between a pharmacy and a pharmacy benefits manager executed or renewed on or after September 1, 2016.