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An Act To Reduce the Cost of Prescription Drugs Purchased by the State and Counties by Using Section 340B of the Federal Public Health Service Act

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is essential to reduce the cost of prescription drugs purchased by the State and counties as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Prescription drugs. The Governor's Office of Health Policy and Finance shall coordinate with the Department of Health and Human Services and other state agencies and representatives of state employees, health care providers and federally qualified health centers to identify opportunities no later than July 1, 2009 to provide prescription drugs through Section 340B of the federal Public Health Service Act, 42 United States Code, Section 256b (2006) for the following, if the costs of implementing such a plan are less than the current cost of providing prescription drugs:

1. State-funded managed care plans;
2. MaineCare;
3. State bulk purchasing initiatives; and

4. Populations using high-cost chronic care and specialty drugs. In carrying out the provisions of this subsection, the Department of Health and Human Services shall by January 15, 2009 prepare and issue a request for proposal for speciality drugs with the greatest potential for savings. The Department of Health and Human Services shall report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters by January 15, 2009 on the opportunities identified and the request for proposal.

Sec. 2. Prescription drugs; corrections and county jails. The Department of Corrections shall convene a working group with members including the director of health care services, the director of clinical and treatment services and the mental health criminal justice manager within the department; 3 persons representing the counties including at least one sheriff or designee of a county participating in the statewide Department of Corrections pharmacy contract; the director of pharmacy affairs in the Governor's Office of Health Policy and Finance; and representatives of employees, covered entities and other interested persons. The working group shall identify opportunities to provide prescription drugs through Section 340B of the federal Public Health Service Act, 42 United States Code, Section 256b (2006) to inmates and employees in youth correctional facilities, county jails and state prisons, where cost

effective and practicable. The Department of Corrections shall report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and health and human services matters as necessary to incorporate any recommendations into future contracts, but at minimum an interim report must be provided to both joint standing committees by January 15, 2009 and a final report must be provided to both committees by January 15, 2010.

The Department of Corrections shall promptly enter into negotiations with its current medical services and pharmacy contractor to recover a greater percentage of rebates, discounts and other financial considerations paid by prescription drug manufacturers and wholesalers to that contractor, and shall incorporate provisions into future contracts that comply with the provisions of the Maine Revised Statutes, Title 22, chapter 603, subchapter 4, including transparency, conflict of interest and rebate pass-through requirements.

Sec. 3. Covered entities. In developing and implementing the plans required in sections 1 and 2 of this Act, the Department of Health and Human Services and the Department of Corrections shall consider all health care providers and facilities in the State potentially eligible for designation as covered entities under Section 340B of the federal Public Health Service Act, 42 United States Code, Section 256b (2006), including without limitation all hospitals eligible as disproportionate share hospitals; recipients of grants from the United States Public Health Service; federally qualified health centers; federally qualified look-alikes; state-operated AIDS drug assistance programs; Ryan White CARE Act Title I, Title II and Title III programs; tuberculosis, black lung, family planning and sexually transmitted disease clinics; hemophilia treatment centers; public housing primary care clinics; and clinics for homeless people.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 16, 2008.