

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)

2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE  
5

6 Legislative Document

No. 2170

7  
8 H.P. 1630

House of Representatives, March 2, 1984

9 Speaker laid before the House and on Motion of Representative  
10 Carter of Winslow, referred to the Committee on Appropriations and  
Financial Affairs. Sent up for concurrence and ordered printed.

11 EDWIN H. PERT, Clerk

Presented by Representative Connolly of Portland.

12 Cosponsors: Speaker Martin of Eagle Lake and Senator Najarian  
of Cumberland.

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FOUR  
17

18 AN ACT Concerning Access to Medical Care for  
19 Persons Without Adequate Health Insurance.  
20

21 Emergency preamble. Whereas, Acts of the Legis-  
22 lature do not become effective until 90 days after  
23 adjournment unless enacted as emergencies; and

24 Whereas, the catastrophic illness program has  
25 evolved to cover a small number of people with very  
26 substantial medical expenses; and

27 Whereas, the medically needy and other medical  
28 assistance programs provided in cooperation with the  
29 Federal Government do not cover many people who ei-  
30 ther do not fall into specific categories of coverage  
31 or whose income is slightly over the so-called "pro-  
32 tected income levels"; and

1       Whereas, there are many individuals and families  
2 not covered by existing programs who cannot afford  
3 adequate health insurance; and

4       Whereas, the results of these gaps in coverage  
5 are both that many people go without necessary medi-  
6 cal attention and preventive care and that medical  
7 costs place increasing demands on the general assist-  
8 ance programs of the municipalities; and

9       Whereas, in the judgment of the Legislature,  
10 these facts create an emergency within the meaning of  
11 the Constitution of Maine and require the following  
12 legislation as immediately necessary for the preser-  
13 vation of the public peace, health and safety; now,  
14 therefore,

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

17       22 MRSA §§3186 and 3187 are enacted to read:

18       §3186. Maine Medical Assistance Fund

19       Access to medical care is limited or unavailable  
20 to many citizens of the State whose income, resources  
21 or health insurance are insufficient to meet the cost  
22 of necessary medical services and who are categori-  
23 cally ineligible for federally-assisted medical care  
24 services. The Legislature finds this situation in-  
25 tolerable since inadequate health coverage discour-  
26 ages the prevention of serious medical conditions,  
27 creates severe hardship and suffering for the indi-  
28 vidual in need of care and leads to increased use of  
29 tertiary care, particularly inpatient hospital care.  
30 It is declared to be the policy of the State to use  
31 all practicable means to provide adequate health care  
32 to all of its citizens whose incomes and resources  
33 are insufficient to meet the cost of necessary medi-  
34 cal services.

35       The Department of Human Services may provide fi-  
36 nanacial assistance to, or on behalf of, families or  
37 individuals residing in this State whose costs, when  
38 or wherever incurred or likely to be incurred, for  
39 hospital outpatient care, physicians' services, rural

1 health clinic services, dentists' services, drugs,  
2 applicants' and other related services, including  
3 skilled nursing home care, as defined by the depart-  
4 ment and as determined by the department to be neces-  
5 sary, cannot be met from their own or other sources,  
6 when those costs are of such magnitude as to consti-  
7 tute a financial catastrophe for those families or  
8 individuals, or when it can be determined that medi-  
9 cal indigency exists. Eligible dentists' services  
10 shall be limited to acute care directly related to an  
11 accident and oral surgical and related medical proce-  
12 dures not involving dentition and gingivae. Skilled  
13 nursing home care shall be an eligible service only  
14 when the patient is admitted to a skilled nursing fa-  
15 cility within 7 days of discharge from a general hos-  
16 pital, following a minimum inpatient stay of at least  
17 5 days. Eligibility for payment for skilled nursing  
18 home care shall be for a maximum of 60 days in any  
19 one year or in association with any one illness epi-  
20 sode. For the purposes of this chapter, "hospital"  
21 shall include a nursing institution conducted by and  
22 for the adherence of a recognized church or religious  
23 denomination which depends exclusively upon spiritual  
24 means through prayer for the treatment of illness.

25 Application for assistance through the Maine Med-  
26 ical Assistance Fund shall be made by the individual  
27 who is, or has been, or will be, receiving the care  
28 for which financial assistance is being sought, or by  
29 a person who is or will be legally responsible for  
30 those costs, or by a legal representative of that in-  
31 dividual. Assistance shall be available through this  
32 fund only on behalf of specific individuals and only  
33 for those who are not eligible for aid through  
34 federally-matched medical care programs as adminis-  
35 tered in this State. It shall terminate when any  
36 similar federal program becomes effective. The Gov-  
37 ernor shall determine by proclamation when that fed-  
38 eral program has become effective.

39 Eligibility for, and aid through, this fund shall  
40 be on a year-to-year basis. Eligibility and the  
41 amount of aid shall be determined only after the full  
42 application to the costs of medical care in any  
43 12-month period of all applicable health care insur-  
44 ance benefits, other 3rd party payer benefits legally  
45 provided for or liability benefits identified as be-

1 ing for medical or rehabilitative care. The percent-  
2 age of nonexcluded assets, as defined by the United  
3 States Supplemental Security Income Program, belong-  
4 ing to the applicant or those legally responsible for  
5 the applicant shall be assumed to be applicable to  
6 the liabilities for care.

7 After the application of all of the resources  
8 mentioned in this section, applicants shall be eligi-  
9 ble for assistance if their residual liability ex-  
10 ceeds the following amounts.

11 Families with children shall be eligible for as-  
12 sistance for covered expenses when they have incurred  
13 or are likely to incur medical expenses during a  
14 month or months greater than the amount by which  
15 their net income for the same period, computed in ac-  
16 cordance with the rules of the Aid to Families with  
17 Dependent Children Program, exceeds the Aid to Fami-  
18 lies with Dependent Children standard of need for a  
19 family of the same size. Single individuals and cou-  
20 ples without children shall be eligible for assist-  
21 ance when they have incurred or are likely to incur  
22 medical expenses during a month or months greater  
23 than the amount by which their net income for the  
24 same period, computed in accordance with the rules of  
25 the State Supplemental Security Income Program, ex-  
26 ceeds the maximum countable income level for the  
27 State Supplemental Security Income Program.

28 When an individual is responsible for the medical  
29 liabilities for more than one applicant in a given  
30 year, the applicant may be eligible for assistance  
31 when spend-down is met for only one applicant.

32 Reimbursements shall not be made for bills al-  
33 ready paid or for the amount incurred by the appli-  
34 cant to meet program eligibility. Payments from this  
35 fund shall only be made directly to the vendors or  
36 providers of care. This section shall not be deemed  
37 to create any rights or causes of action against the  
38 State in such a vendor or provider of care, his heirs  
39 or assigns. When eligibility has been established,  
40 the department may make payments from this fund, dur-  
41 ing the remainder of the year of eligibility, for  
42 those goods and services provided for in this sec-  
43 tion.

1       Funds from this program may be used during the  
2 eligibility period to assist persons covered by the  
3 program in obtaining and maintaining private health  
4 insurance if the cost to the department of the premi-  
5 ums for private health insurance would be less than  
6 the cost of providing the same services to the person  
7 being assisted by the program. In addition, the de-  
8 partment may establish an assigned risk pool which  
9 would cover those individuals who were refused cover-  
10 age by at least 3 carriers or private health insur-  
11 ance.

12       The Department of Human Services shall adopt and  
13 promulgate the additional rules which may be neces-  
14 sary for proper, equitable and effective administra-  
15 tion of this section.

16       The adoption, amendment or repeal of any rules  
17 governing this section are subject to the require-  
18 ments of the Maine Administrative Procedure Act, Ti-  
19 tle 5, chapter 375.

20       Any balances of funds appropriated for medical  
21 expenses under this section shall not lapse, but  
22 shall be carried forward from year to year to be ex-  
23 pended for the same purpose.

24       The receipt of benefits under the Maine Medical  
25 Assistance Program shall constitute an assignment by  
26 the recipient to the department of the right to re-  
27 cover from 3rd parties for medical costs of injury,  
28 disease, disability or similar occurrence for which  
29 the recipient receives medical benefits. The depart-  
30 ment's assigned right to recover shall be limited to  
31 the amount of medical benefits received by the recip-  
32 ient. The recipient shall be considered to have ap-  
33 pointed the commissioner as his attorney in fact to  
34 perform the specific act of submitting claims to in-  
35 surance carriers or endorsing to the department any  
36 and all drafts, checks, money orders or other nego-  
37 tiable instruments collected with the payment of 3rd  
38 party medical claims. For the purposes of this para-  
39 graph, "3rd party" means any entity that is or may be  
40 liable to pay all or part of the medical costs of in-  
41 jury, disease, disability or similar occurrence, of  
42 an applicant or recipient of benefits under the Maine  
43 Medical Assistance Program.

1     §3187 Purchase of Medicare insurance for eligible  
2     participants

3             The department shall enroll and pay the Part B  
4     premium for Medicare recipients who are also recipi-  
5     ents of Maine's Medically Needy Program. The enroll-  
6     ment period covered by the department by Part B  
7     Medicare shall be for the period the person is en-  
8     rolled in the Maine Medically Needy Program or for  
9     one year, whichever is longer.

10            1. Commission established. There is established  
11     a Special Select Commission on Access to Health Care  
12     that shall investigate the extent to which citizens  
13     of this State are without access to adequate health  
14     care and the level of medical care available to per-  
15     sons without adequate health insurance.

16            2. Membership. The commission shall have 11  
17     members as follows: Three members of the Legislature,  
18     including one Senator and 2 Representatives; 2 mem-  
19     bers representing providers of direct medical care,  
20     one of whom is a physician and the other an allied  
21     health professional; one member representing medical  
22     researchers; one member representing health care in-  
23     stitutions; one member representing the health insur-  
24     ance industry; one member representing the general  
25     public; and 2 members representing low income consum-  
26     ers of health care.

27            3. Appointment. The members of the commission  
28     shall be appointed by the Speaker of the House of  
29     Representatives and the President of the Senate.

30            4. Duties. The commission shall inquire into  
31     the extent to which citizens of this State are with-  
32     out adequate health care because their incomes and  
33     resources are insufficient to meet the cost of neces-  
34     sary health care. The commission shall make recom-  
35     mendations to the First Regular Session of the 112th  
36     Legislature as to how universal access to necessary  
37     medical care may be achieved for all citizens. The  
38     inquiry shall include, but not be limited to, a re-  
39     view of those Medicaid options in which the State  
40     does not presently participate, the possibility of  
41     providing health coverage to needy citizens presently  
42     without coverage through the purchase of private

1 group insurance, or the feasibility of expanding com-  
2 prehensive state-funded medical assistance programs  
3 to needy persons.

4       5. Staff and assistance. In order to carry out  
5 its duties, a commission shall be appropriated  
6 \$50,000, of which up to \$40,000 shall be used to un-  
7 dertake a study of the citizens of this State to de-  
8 termine the extent to which citizens of this State  
9 are without adequate health care because of their in-  
10 come and resources, the extent to which citizens of  
11 this State lack adequate health insurance to cover  
12 the cost of medical care and the extent to which they  
13 are medically disadvantaged because of the lack of  
14 adequate income, resources and health insurance. The  
15 study shall be conducted by a person or organization  
16 who has experience in health care and medical re-  
17 search. The methods for conducting the study and the  
18 amount to be awarded by the commission shall be done  
19 on a competitive bid process after the commission has  
20 made a public notification of the specifications of  
21 the study and the time period for its conduct. The  
22 person or organization chosen to conduct this study  
23 shall work with the commission in completing the re-  
24 port to be submitted to the 112th Legislature. The  
25 Department of Human Services and the Bureau of Insur-  
26 ance shall provide research, clerical and computer  
27 assistance to the commission and give unrestricted  
28 access to its records, rules, policies and data, ex-  
29 cept for those items which the department is legally  
30 obligated to keep confidential.

31       Emergency clause. In view of the emergency  
32 cited in the preamble, this Act shall take effect  
33 when approved.

#### 34                   STATEMENT OF FACT

35       Access to physician care, emergency dental ser-  
36 vices, prescription drugs and related services are  
37 limited or unavailable to many citizens of the State  
38 whose income and resources are insufficient to meet  
39 the cost of necessary care and who are categorically  
40 ineligible for federally-assisted medical care ser-  
41 vices. The Catastrophic Illness Program presently  
42 does not provide assistance to financially eligible



1 persons until medical expenses in excess of \$7,000  
2 have been incurred and then will pay only those ex-  
3 penses which exceed \$7,000.

4 The result of these gaps in coverage are both  
5 that many people go without necessary medical atten-  
6 tion and preventative care and that medical costs  
7 place increasing burdens on general assistance pro-  
8 grams of the municipalities.

9 This bill would provide assistance for hospital  
10 outpatient services, physicians' services, drugs, ap-  
11 pliances and other related services, including lim-  
12 ited nursing home care to persons whose medical ex-  
13 penses exceed certain specified limits. It also cre-  
14 ates a special select commission to investigate the  
15 extent to which Maine citizens continue to be without  
16 adequate access to necessary health care.

17 5106010984