

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

---

Legislative Document

No. 1578

---

H.P. 1149

House of Representatives, December 30, 2013

### **An Act To Increase Health Security by Expanding Federally Funded Health Care for Maine People**

---

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 23, 2013. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND

Clerk

Presented by Speaker EVES of North Berwick.  
Cosponsored by Senator JACKSON of Aroostook and  
Representatives: EVANGELOS of Friendship, McELWEE of Caribou, SANBORN of  
Gorham, WILSON of Augusta, WINCHENBACH of Waldoboro, Senators: President  
ALFOND of Cumberland, CAIN of Penobscot, SAVIELLO of Franklin.

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

2 **PART A**

3 **Sec. A-1. 22 MRSA §3174-G, sub-§1, ¶F,** as amended by PL 2011, c. 380, Pt.  
4 KK, §2, is further amended to read:

5 F. A person 20 to 64 years of age who is not otherwise covered under paragraphs A  
6 to E when the person's family income is below or equal to 125% of the nonfarm  
7 income official poverty line, provided that the commissioner shall adjust the  
8 maximum eligibility level in accordance with the requirements of the paragraph.

9 (2) If the commissioner reasonably anticipates the cost of the program to exceed  
10 the budget of the population described in this paragraph, the commissioner shall  
11 lower the maximum eligibility level to the extent necessary to provide coverage  
12 to as many persons as possible within the program budget.

13 (3) The commissioner shall give at least 30 days' notice of the proposed change  
14 in maximum eligibility level to the joint standing committee of the Legislature  
15 having jurisdiction over appropriations and financial affairs and the joint standing  
16 committee of the Legislature having jurisdiction over health and human services  
17 matters; ~~and~~

18 **Sec. A-2. 22 MRSA §3174-G, sub-§1, ¶G,** as enacted by PL 2011, c. 380, Pt.  
19 KK, §3, is amended to read:

20 G. A person who is a noncitizen legally admitted to the United States to the extent  
21 that coverage is allowable by federal law if the person is:

- 22 (1) A woman during her pregnancy and up to 60 days following delivery; or  
23 (2) A child under 21 years of age;

24 **Sec. A-3. 22 MRSA §3174-G, sub-§1, ¶¶H and I** are enacted to read:

25 H. Effective July 1, 2014, a person 21 to 64 years of age who is not otherwise  
26 eligible for medical assistance under this section, who qualifies for medical assistance  
27 pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and who has  
28 income at or below 133% of the nonfarm income official poverty line plus 5% for the  
29 applicable family size as required by federal law. A person eligible for medical  
30 assistance under this paragraph must receive the same coverage as is provided to a  
31 person eligible under paragraph E; and

32 I. Beginning October 1, 2019, a person 19 or 20 years of age who is not otherwise  
33 eligible for medical assistance under this section, who qualifies for medical assistance  
34 pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and who has  
35 income at or below 133% of the nonfarm income official poverty line plus 5% for the  
36 applicable family size as required by federal law. A person eligible for medical  
37 assistance under this paragraph must receive the same coverage as is provided to a  
38 person eligible under paragraph E.



1 the childless adult population on December 1, 2009. If the secretary requires the  
2 submission of additional information to demonstrate that members of the childless adult  
3 population otherwise qualify as "newly eligible" individuals as described in Section  
4 1905(y)(2) of the United States Social Security Act, in order for the State to secure an  
5 enhanced Federal Medical Assistance Percentage as set forth in Section 1905(y)(1) of the  
6 United States Social Security Act, the Department of Health and Human Services shall  
7 provide all required information to the secretary within 30 days of the secretary's sending  
8 notification that additional information is required.

9 **Sec. B-2. Report.** The Commissioner of Health and Human Services shall report  
10 no later than November 1, 2014 to the Joint Standing Committee on Appropriations and  
11 Financial Affairs and the Joint Standing Committee on Health and Human Services on  
12 efforts to secure the maximum Federal Medical Assistance Percentage under section 1,  
13 including any correspondence with the United States Department of Health and Human  
14 Services regarding these efforts.

## 15 PART C

16 **Sec. C-1. Research organization evaluation.** The Office of Fiscal and  
17 Program Review shall contract with a nonpartisan research organization to evaluate the  
18 impact of the MaineCare expansion authorized in Part A on programs and services that do  
19 not currently receive Federal Medical Assistance Percentage matching funds or do not  
20 qualify for enhanced Federal Medical Assistance Percentage matching funds under the  
21 federal Patient Protection and Affordable Care Act, 42 United States Code, Section  
22 18001, et seq., with the goal of identifying and maximizing General Fund savings. The  
23 Commissioner of Health and Human Services, the Commissioner of Corrections and the  
24 Executive Director of the State Board of Corrections shall provide to the research  
25 organization information and assistance requested for preparation of the evaluation. In  
26 evaluating the programs and services under this Part, the research organization shall at a  
27 minimum evaluate the impact on the following programs and services: the state-funded  
28 Mental Health Services - Community, Office of Substance Abuse and General Assistance  
29 - Reimbursement to Cities and Towns programs; the elderly low-cost drug program under  
30 the Maine Revised Statutes, Title 22, section 254-D; services provided for individuals 21  
31 to 64 years of age who are currently eligible for MaineCare under medically needy,  
32 spend-down criteria; services provided under the Maine HIV/AIDS Section 1115  
33 Demonstration Waiver; services provided for parents participating in family reunification  
34 activities; services provided for disabled individuals 21 to 64 years of age with incomes  
35 below 139% of the federal poverty level; services provided to individuals awaiting a  
36 MaineCare disability determination for whom the applications are subsequently granted;  
37 services provided to individuals who would have been considered eligible on the basis of  
38 a disability but for whom the full determination process was not completed; medical  
39 services provided to persons in the care and custody of the Department of Corrections or  
40 a county correctional facility; and the amount of payment for services that hospitals  
41 received during fiscal years 2014-15 and 2015-16 as a result of the expansion of  
42 MaineCare eligibility pursuant to Part A. In addition, the research organization shall  
43 evaluate any savings and the impact on health outcomes achieved through initiatives  
44 implemented pursuant to the State Innovation Models Initiative grant.

1           **Sec. C-2. Report.** The research organization that conducts the evaluation under  
2 section 1 shall report no later than October 1st in 2014 and 2015 and February 15, 2016 to  
3 the joint standing committee of the Legislature having jurisdiction over appropriations  
4 and financial affairs, the joint standing committee of the Legislature having jurisdiction  
5 over health and human services matters and the joint standing committee of the  
6 Legislature having jurisdiction over criminal justice and public safety matters on the  
7 amount of General Fund savings resulting from the MaineCare expansion authorized in  
8 Part A and identified in section 1. The reports must include the amount of savings  
9 expected and realized during fiscal years 2014-15 and 2015-16 by service area or  
10 program, the amount deposited in the MaineCare Stabilization Fund pursuant to section 3  
11 and the amount of savings projected to be achieved through state fiscal year 2020-21 by  
12 service area or program.

13           **Sec. C-3. Calculation and transfer.** Notwithstanding any other provision of law,  
14 the State Budget Officer shall calculate the amount of savings identified in this Part that  
15 applies against each General Fund account statewide as a result of the expansion of  
16 MaineCare eligibility authorized in Part A and shall transfer the amounts up to the  
17 amounts specified in section 6 by financial order upon the approval of the Governor.  
18 These transfers are considered adjustments to appropriations in fiscal year 2014-15. The  
19 State Controller shall transfer any amounts identified under this Part greater than the  
20 amounts specified in section 6 to the MaineCare Stabilization Fund established under the  
21 Maine Revised Statutes, Title 22, section 3174-KK. The State Budget Officer shall  
22 provide a report of the transferred amounts to the joint standing committee of the  
23 Legislature having jurisdiction over appropriations and financial affairs no later than June  
24 30, 2015 for fiscal year 2014-15 and no later than June 30, 2016 for fiscal year 2015-16.

25           **Sec. C-4. Review and responsibility.** Following receipt of the reports from the  
26 research organization as required under section 2, the joint standing committee of the  
27 Legislature having jurisdiction over health and human services matters shall review the  
28 information provided in the reports and shall determine if the net cost to the General Fund  
29 of providing coverage under the MaineCare program to individuals pursuant to Part A,  
30 section 3 exceeds the savings to the General Fund, including any amount deposited in the  
31 MaineCare Stabilization Fund pursuant to section 3, due to the expansion of coverage for  
32 those individuals. Following its review of the report received on February 15, 2016, the  
33 joint standing committee may report out a bill to the 127th Legislature regarding its  
34 determinations and conclusions.

35           **Sec. C-5. Appropriations and allocations.** The following appropriations and  
36 allocations are made.

37           **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

38           **Executive Branch Departments and Independent Agencies - Statewide 0017**

39           Initiative: Deappropriates funds on a statewide basis for savings to be identified under  
40 this Part in existing state programs that result from the expansion of MaineCare  
41 eligibility.

1	<b>GENERAL FUND</b>	<b>2013-14</b>	<b>2014-15</b>
2	Unallocated	\$0	(\$5,900,000)
3			
4	<b>GENERAL FUND TOTAL</b>	<u>\$0</u>	<u>(\$5,900,000)</u>

5	<b>ADMINISTRATIVE AND FINANCIAL</b>		
6	<b>SERVICES, DEPARTMENT OF</b>		
7	<b>DEPARTMENT TOTALS</b>	<b>2013-14</b>	<b>2014-15</b>
8			
9	<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$5,900,000)</b>
10			
11	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u>\$0</u>	<u>(\$5,900,000)</u>

12 **LEGISLATURE**

13 **Legislature 0081**

14 Initiative: Provides one-time funding for the Office of Fiscal and Program Review to  
 15 contract with a nonpartisan research organization to evaluate the impact of Medicaid  
 16 expansion.

17	<b>GENERAL FUND</b>	<b>2013-14</b>	<b>2014-15</b>
18	All Other	\$0	\$100,000
19			
20	<b>GENERAL FUND TOTAL</b>	<u>\$0</u>	<u>\$100,000</u>

21	<b>LEGISLATURE</b>		
22	<b>DEPARTMENT TOTALS</b>	<b>2013-14</b>	<b>2014-15</b>
23			
24	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$100,000</b>
25			
26	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u>\$0</u>	<u>\$100,000</u>

27	<b>SECTION TOTALS</b>	<b>2013-14</b>	<b>2014-15</b>
28			
29	<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$5,800,000)</b>
30			
31	<b>SECTION TOTAL - ALL FUNDS</b>	<u>\$0</u>	<u>(\$5,800,000)</u>

32 **PART D**

33 **Sec. D-1. Appropriations and allocations.** The following appropriations and  
 34 allocations are made.

1 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

2 **Medical Care - Payments to Providers 0147**

3 Initiative: Provides funds for the costs of MaineCare coverage for newly eligible adults  
4 under 139% of the federal poverty line.

5	<b>FEDERAL EXPENDITURES FUND</b>	<b>2013-14</b>	<b>2014-15</b>
6	All Other	\$0	\$263,724,061
7			
8	FEDERAL EXPENDITURES FUND TOTAL	<u>\$0</u>	<u>\$263,724,061</u>

9 **Medical Care - Payments to Providers 0147**

10 Initiative: Provides funds for the costs of MaineCare coverage for the childless adult  
11 waiver population.

12	<b>FEDERAL EXPENDITURES FUND</b>	<b>2013-14</b>	<b>2014-15</b>
13	All Other	\$0	\$61,474,140
14			
15	FEDERAL EXPENDITURES FUND TOTAL	<u>\$0</u>	<u>\$61,474,140</u>

16 **Office of Family Independence - District 0453**

17 Initiative: Provides funding for 6 Family Independence Unit Supervisor positions, 13  
18 Office Assistant II positions and 64 Eligibility Specialist positions in the Office for  
19 Family Independence program and for related All Other costs necessary to implement and  
20 administer the MaineCare eligibility changes. This assumes the Eligibility Specialist  
21 positions are funded 25% General Fund and 75% Other Special Revenue Funds and the  
22 other positions are funded 50% General Fund and 50% Other Special Revenue Funds.

23	<b>GENERAL FUND</b>	<b>2013-14</b>	<b>2014-15</b>
24	POSITIONS - LEGISLATIVE COUNT	0.000	83.000
25	Personal Services	\$0	\$1,896,901
26	All Other	\$0	\$167,534
27			
28	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$2,064,435</u>

29	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2013-14</b>	<b>2014-15</b>
30	Personal Services	\$0	\$4,308,290
31	All Other	\$0	\$326,739
32			
33	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$4,635,029</u>



1	<b>HEALTH AND HUMAN SERVICES,</b>		
2	<b>DEPARTMENT OF (FORMERLY DHS)</b>		
3	<b>DEPARTMENT TOTALS</b>	<b>2013-14</b>	<b>2014-15</b>
4			
5	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$2,064,435</b>
6	<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$325,198,201</b>
7	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$4,635,029</b>
8			
9	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$331,897,665</b>

10 **PART E**

11 **Sec. E-1. 22 MRSA §3173-C, sub-§7**, as amended by PL 2009, c. 415, Pt. A,  
 12 §12, is further amended to read:

13 **7. Copayments.** Notwithstanding any other provision of law, the following  
 14 copayments per service per day are imposed and reimbursements are reduced, or both, to  
 15 the following levels:

- 16 A. Outpatient hospital services, \$3;
- 17 B. Home health services, \$3;
- 18 C. Durable medical equipment services, \$3;
- 19 D. Private duty nursing and personal care services, \$5 per month;
- 20 E. Ambulance services, \$3;
- 21 F. Physical therapy services, \$2;
- 22 G. Occupational therapy services, \$2;
- 23 H. Speech therapy services, \$2;
- 24 I. Podiatry services, \$2;
- 25 J. Psychologist services, \$2;
- 26 K. Chiropractic services, \$2;
- 27 L. Laboratory and x-ray services, \$1;
- 28 M. Optical services, \$2;
- 29 N. Optometric services, \$3;
- 30 O. Mental health clinic services, \$2;
- 31 P. Substance abuse services, \$2;
- 32 Q. Hospital inpatient services, \$3 per patient day;
- 33 R. Federally qualified health center services, \$3 per patient day, effective July 1,  
 34 2004; and
- 35 S. Rural health center services, \$3 per patient day.

1 The department may adopt rules to adjust the copayments set forth in this subsection.  
2 The rules may adjust amounts to ensure that copayments are deemed nominal in amount  
3 and may include monthly limits or exclusions per service category. The need to maintain  
4 provider participation in the Medicaid program to the extent required by 42 United States  
5 Code, Section 1396a(a)(30)(A) or any successor provision of law must be considered in  
6 any reduction in reimbursement to providers or imposition of copayments.

7 For an adult when the adult's family income is above 100% of the nonfarm income  
8 official poverty line, the department shall adopt rules to adjust the copayments  
9 established under this subsection to reflect the maximum allowable amounts authorized  
10 under 42 United States Code, Section 1396o; to increase copayments as authorized by 42  
11 United States Code, Section 1396o(h); and in compliance with 42 United States Code,  
12 Section 1396o(b)(3) to impose a copayment for services received at a hospital emergency  
13 room of up to twice the amount established as the copayment for outpatient services if the  
14 services are not emergency services. The department shall track aggregate copayments in  
15 compliance with 42 Code of Federal Regulations, Section 447.68 and, by rule, make  
16 adjustments to copayments to ensure compliance with federal law.

17 **Sec. E-2. Contingent effective date.** Those sections of this Act that enact the  
18 Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H and I take  
19 effect 30 days after the United States Department of Health and Human Services, Centers  
20 for Medicare and Medicaid Services confirms in writing to the Commissioner of Health  
21 and Human Services that the enhanced Federal Medical Assistance Percentage set forth in  
22 Section 1905(y)(1) of the United States Social Security Act is applicable to the  
23 individuals who received coverage as of December 1, 2009, who are described in Title  
24 22, section 3174-G, subsection 1, paragraph F and who are defined in Section 1905(y)(2)  
25 of the United States Social Security Act. Upon receipt of confirmation from the federal  
26 Centers for Medicare and Medicaid Services, the Commissioner of Health and Human  
27 Services shall notify in writing the President of the Senate, the Speaker of the House of  
28 Representatives and the Revisor of Statutes and shall provide them with a copy of the  
29 written confirmation.

## 30 SUMMARY

31 This bill accomplishes the following.

32 Part A expands medical coverage under the MaineCare program to adults who  
33 qualify under federal law with incomes up to 133% of the nonfarm income official  
34 poverty line, with the 5% federal income adjustment for family size, and qualifies Maine  
35 to receive federal funding for 100% of the cost of coverage for members who enroll  
36 under the expansion. Adults who will be eligible are those 21 to 64 years of age effective  
37 July 1, 2014 and adults 19 and 20 years of age beginning October 1, 2019. The  
38 expansion of Medicaid eligibility contained in this Part is repealed if 3 circumstances  
39 occur: the enhanced Federal Medical Assistance Percentage for calendar years 2014  
40 through 2020 is reduced below certain stated levels; the reduced enhanced Federal  
41 Medical Assistance Percentage has taken effect; and after the occurrence of the reduction  
42 of the enhanced Federal Medical Assistance Percentage the Legislature has convened and

1 conducted a session of at least 30 calendar days. This bill repeals the expansion of  
2 medical coverage under the MaineCare program on December 31, 2016.

3 Part B requires the Commissioner of Health and Human Services to take all steps  
4 necessary to secure an enhanced federal match rate for services provided to the  
5 MaineCare childless adult waiver population and to report to the Joint Standing  
6 Committee on Appropriations and Financial Affairs and the Joint Standing Committee on  
7 Health and Human Services by November 1, 2014 on these efforts.

8 Part C requires the Office of Fiscal and Program Review to contract with a  
9 nonpartisan research organization to evaluate the impact of the MaineCare expansion on  
10 programs and services that do not currently receive Federal Medical Assistance  
11 Percentage matching funds or do not qualify for enhanced Federal Medical Assistance  
12 Percentage matching funds under the federal Patient Protection and Affordable Care Act,  
13 42 United States Code, Section 18001, et seq., with the goal of identifying and  
14 maximizing General Fund savings. Part C requires a report by October 1st in 2014 and  
15 2015 and February 15, 2016 to the joint standing committee of the Legislature having  
16 jurisdiction over appropriations and financial affairs, the joint standing committee of the  
17 Legislature having jurisdiction over health and human services matters and the joint  
18 standing committee of the Legislature having jurisdiction over criminal justice and public  
19 safety matters on the amount of General Fund savings resulting from the MaineCare  
20 expansion. The report must include the amount of savings expected and realized during  
21 fiscal years 2014-15 and 2015-2016 by service area or program. Part C requires the State  
22 Budget Officer to calculate the amount of savings that applies against each General Fund  
23 account for all departments and agencies from savings associated with the MaineCare  
24 expansion and to transfer the amounts by financial order upon the approval of the  
25 Governor. It requires the State Controller to transfer any remaining savings to the  
26 MaineCare Stabilization Fund. Part C requires the State Budget Officer to provide a  
27 report of the transferred amounts to the joint standing committee of the Legislature  
28 having jurisdiction over appropriations and financial affairs no later than June 30, 2015  
29 for fiscal year 2014-15 and no later than June 30, 2016 for fiscal year 2015-16.

30 Part D provides funding for positions in the Department of Health and Human  
31 Services, Office of Family Independence.

32 Part E amends current law on copayments in the MaineCare program. This bill  
33 directs the Department of Health and Human Services to increase copayments for adults  
34 with income above 100% of the nonfarm income official poverty line to the maximum  
35 allowable under federal law and to increase nominal copayments by the annual  
36 percentage increase in the medical care component of the Consumer Price Index for All  
37 Urban Consumers. It directs the department to increase MaineCare copayments for  
38 services provided in a hospital emergency room when the services are not emergency  
39 services and requires the department to track aggregate copayments in compliance with  
40 federal law. Part E provides that until the United States Department of Health and  
41 Human Services, Centers for Medicare and Medicaid Services confirms that the State will  
42 get the enhanced reimbursement rate, the expansion of medical coverage under the  
43 MaineCare program will not take effect.