

# MAINE STATE LEGISLATURE

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Date:

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(Filing No. H-237)

**HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
132ND LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 72, L.D. 107, "An Act to Require Health Insurance Coverage for Biomarker Testing"

Amend the bill in section 1 in §3174-PPP in subsection 1 by striking out all of paragraph C (page 1, lines 16 to 22 in L.D.) and inserting the following:

'C. "Clinical utility" means, in the context of biomarker testing, that the use of biomarker testing is expected to provide meaningful information to guide decisions for the treatment of a disease or condition to improve net health outcomes, quality of life or survival of a patient, even if the results of biomarker testing are not immediately actionable in the course of a patient's treatment.'

Amend the bill in section 1 in §3174-PPP in subsection 2 in the 3rd line (page 1, line 33 in L.D.) by striking out the following: "is supported" and inserting the following: 'provides clinical utility as demonstrated'Amend the bill in section 1 in §3174-PPP in subsection 2 in paragraph D in the last 2 lines (page 2, lines 2 and 3 in L.D.) by striking out the following: "Medicare administrative contractor local coverage determination" and inserting the following: 'a Medicare administrative contractor local coverage determination that is explicitly applicable in this State'Amend the bill in section 1 in §3174-PPP in subsection 2 in paragraph E in the first line (page 2, line 4 in L.D.) by striking out the following: "or consensus statement"

Amend the bill in section 1 in §3174-PPP by inserting after subsection 2 the following:

'3. Prior authorization. Before providing coverage for biomarker testing as required by subsection 2, the department may require prior authorization. If prior authorization is required prior to biomarker testing, the department or any 3rd party acting on behalf of the department must approve or deny a prior authorization request and notify the MaineCare member and the MaineCare member's health care provider and any entity requesting authorization of the service within 72 hours for requests that are not urgent or within 24 hours for urgent requests.'

**COMMITTEE AMENDMENT**

1 **4. No biomarker testing for asymptomatic screening.** This section may not be  
2 construed to require coverage for biomarker testing for the purposes of asymptomatic  
3 screening.'

4 Amend the bill in section 3 in §2745-H in subsection 1 by striking out all of paragraph  
5 C (page 2, lines 25 to 31 in L.D.) and inserting the following:

6 'C. "Clinical utility" means, in the context of biomarker testing, that the use of  
7 biomarker testing is expected to provide meaningful information to guide decisions for  
8 the treatment of a disease or condition to improve net health outcomes, quality of life  
9 or survival of a patient, even if the results of biomarker testing are not immediately  
10 actionable in the course of a patient's treatment.'

11 Amend the bill in section 3 in §2745-H in subsection 2 in the 4th line (page 3, line 4 in  
12 L.D.) by striking out the following: "is supported" and inserting the following: 'provides  
13 clinical utility as demonstrated'

14 Amend the bill in section 3 in §2745-H in subsection 2 in paragraph D in the last line  
15 (page 3, line 12 in L.D.) by inserting after the following: "determination" the following:  
16 'that is explicitly applicable in this State'

17 Amend the bill in section 3 in §2745-H in subsection 2 in paragraph E in the first line  
18 (page 3, line 13 in L.D.) by striking out the following: "or consensus statement"

19 Amend the bill in section 3 in §2745-H in subsection 3 in the last 3 lines (page 3, lines  
20 22 to 24 in L.D.) by striking out the following: "and notify the person covered by the policy,  
21 the person's health care provider and any entity requesting authorization of the service  
22 within 72 hours for nonurgent requests or within 24 hours for urgent requests" and inserting  
23 the following: 'in accordance with the requirements in section 4304'

24 Amend the bill in section 3 in §2745-H by inserting after subsection 3 the following:

25 **'4. No biomarker testing for asymptomatic screening.** This section may not be  
26 construed to require coverage for biomarker testing for the purposes of asymptomatic  
27 screening.'

28 Amend the bill in section 4 in §2837-I in subsection 1 by striking out all of paragraph  
29 C (page 3, lines 39 to 42 and page 4, lines 1 to 3 in L.D.) and inserting the following:

30 'C. "Clinical utility" means, in the context of biomarker testing, that the use of  
31 biomarker testing is expected to provide meaningful information to guide decisions for  
32 the treatment of a disease or condition to improve net health outcomes, quality of life  
33 or survival of a patient, even if the results of biomarker testing are not immediately  
34 actionable in the course of a patient's treatment.'

35 Amend the bill in section 4 in §2837-I in subsection 2 in the 4th line (page 4, line 15  
36 in L.D.) by striking out the following: "is supported" and inserting the following: 'provides  
37 clinical utility as demonstrated'

38 Amend the bill in section 4 in §2837-I in subsection 2 in paragraph D in the last 2 lines  
39 (page 4, lines 23 and 24 in L.D.) by striking out the following: "Medicare administrative  
40 contractor local coverage determination" and inserting the following: 'a Medicare  
41 administrative contractor local coverage determination that is explicitly applicable in this  
42 State'

Amend the bill in section 4 in §2837-I in subsection 2 in paragraph E in the first line (page 4, line 25 in L.D.) by striking out the following: "or consensus statement"

Amend the bill in section 4 in §2837-I in subsection 3 in the last 4 lines (page 4, lines 34 to 37 in L.D.) by striking out the following: "and notify the insured person or subscriber covered by that policy, the insured person's or subscriber's health care provider and any entity requesting authorization of the service within 72 hours for nonurgent requests or within 24 hours for urgent requests" and inserting the following: 'in accordance with the requirements in section 4304'

Amend the bill in section 4 in §2837-I by inserting after subsection 3 the following:

**'4. No biomarker testing for asymptomatic screening. This section may not be construed to require coverage for biomarker testing for the purposes of asymptomatic screening.'**

Amend the bill in section 5 in §4237-B in subsection 1 by striking out all of paragraph C (page 5, lines 11 to 17 in L.D.) and inserting the following:

'C. "Clinical utility" means, in the context of biomarker testing, that the use of a biomarker test is expected to provide meaningful information to guide decisions for the treatment of a disease or condition to improve net health outcomes, quality of life or survival of a patient, even if the results of a biomarker test are not immediately actionable in the course of a patient's treatment.'

Amend the bill in section 5 in §4237-B in subsection 2 in the 4th line (page 5, line 29 in L.D.) by striking out the following: "is supported" and inserting the following: 'provides clinical utility as demonstrated'

Amend the bill in section 5 in §4237-B in subsection 2 in paragraph D in the last 2 lines (page 5, lines 37 and 38 in L.D.) by striking out the following: "Medicare administrative contractor local coverage determination" and inserting the following: 'a Medicare administrative contractor local coverage determination that is explicitly applicable in this State'

Amend the bill in section 5 in §4237-B in subsection 2 in paragraph E in the first line (page 5, line 39 in L.D.) by striking out the following: "or consensus statement"

Amend the bill in section 5 in §4237-B in subsection 3 in the last 4 lines (page 6, lines 9 to 12 in L.D.) by striking out the following: "and notify the insured person or subscriber covered by that policy, the insured person's or subscriber's health care provider and any entity requesting authorization of the service within 72 hours for nonurgent requests or within 24 hours for urgent requests" and inserting the following: 'in accordance with the requirements in section 4304'

Amend the bill in section 5 in §4237-B by inserting after subsection 3 the following:

**'4. No biomarker testing for asymptomatic screening. This section may not be construed to require coverage for biomarker testing for the purposes of asymptomatic screening.'**

Amend the bill in section 6 in the last line (page 6, line 16 in L.D.) by striking out the following: "2026" and inserting the following: '2027'

Amend the bill by inserting after section 6 the following:

**Sec. 7. Exempt from mandate review.** Notwithstanding the Maine Revised Statutes, Title 24-A, section 2752, this Act is enacted without review and evaluation by the Department of Professional and Financial Regulation, Bureau of Insurance.

**Sec. 8. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**State Benefit Mandate Defrayal Z373**

Initiative: Provides ongoing funding for the cost of the benefit mandate providing coverage, including coverage in the MaineCare program, for biomarker testing, beginning January 1, 2027.

<b>GENERAL FUND</b>	<b>2025-26</b>	<b>2026-27</b>
All Other	\$0	\$170,000
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$170,000</b>

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

	<b>2025-26</b>	<b>2026-27</b>
<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$170,000</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$170,000</b>

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

**Medical Care - Payments to Providers 0147**

Initiative: Provides funding for MaineCare coverage of biomarker testing.

<b>GENERAL FUND</b>	<b>2025-26</b>	<b>2026-27</b>
All Other	\$0	\$935,162
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$935,162</b>

**FEDERAL EXPENDITURES FUND**

	<b>2025-26</b>	<b>2026-27</b>
All Other	\$0	\$2,098,754
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$2,098,754</b>

**FEDERAL BLOCK GRANT FUND**

	<b>2025-26</b>	<b>2026-27</b>
All Other	\$0	\$12,773
<b>FEDERAL BLOCK GRANT FUND TOTAL</b>	<b>\$0</b>	<b>\$12,773</b>

**Office of MaineCare Services 0129**

1 Initiative: Establishes one Health Services Consultant position funded 50% General Fund  
2 and 50% Federal Expenditures Fund in the Office of MaineCare Services to conduct prior  
3 authorization work and provides funding for related All Other costs.

4	<b>GENERAL FUND</b>	<b>2025-26</b>	<b>2026-27</b>
5	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
6	Personal Services	\$0	\$54,559
7	All Other	\$0	\$3,628
8			
9	<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$58,187</b>

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11	<b>FEDERAL EXPENDITURES FUND</b>	<b>2025-26</b>	<b>2026-27</b>
12	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
13	Personal Services	\$0	\$54,559
14	All Other	\$0	\$4,978
15			
16	<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$59,537</b>

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18	<b>HEALTH AND HUMAN SERVICES,</b>		
19	<b>DEPARTMENT OF</b>		
20	<b>DEPARTMENT TOTALS</b>	<b>2025-26</b>	<b>2026-27</b>
21			
22	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$993,349</b>
23	<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$2,158,291</b>
24	<b>FEDERAL BLOCK GRANT FUND</b>	<b>\$0</b>	<b>\$12,773</b>
25			
26	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$3,164,413</b>

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28	<b>SECTION TOTALS</b>	<b>2025-26</b>	<b>2026-27</b>
29			
30	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$1,163,349</b>
31	<b>FEDERAL EXPENDITURES FUND</b>	<b>\$0</b>	<b>\$2,158,291</b>
32	<b>FEDERAL BLOCK GRANT FUND</b>	<b>\$0</b>	<b>\$12,773</b>
33			
34	<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$3,334,413</b>

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36 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
37 number to read consecutively.

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### SUMMARY

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As drafted, the bill requires insurance coverage, including coverage in the MaineCare program, for biomarker testing. This amendment proposes to make the following changes to the bill. The amendment:

1 1. Eliminates "consensus statement" as a source of evidence by removing the definition  
2 and all uses of the term in the bill;

3 2. Adds a definition of "clinical utility" in the context of biomarker testing that means  
4 that the use of biomarker testing will provide meaningful information that affects treatment  
5 decisions and guides improvement of net health outcomes, including an improved quality  
6 of life or longer survival. The most appropriate test may include some information that is  
7 not immediately actionable;

8 3. Expressly states that no coverage is required for biomarker testing for the purposes  
9 of asymptomatic screening;

10 4. Adds that coverage for a Medicare administrative contractor local coverage  
11 determination is only required when applicable to Maine;

12 5. Clarifies testing is done to guide treatment decisions;

13 6. Expressly permits the MaineCare program to require prior authorization for  
14 biomarker testing;

15 7. Clarifies that prior authorization determinations by health insurance carriers must be  
16 done in accordance with the requirements of current law in the Maine Revised Statutes,  
17 Title 24-A, section 4304;

18 8. Extends the application date from January 1, 2026 to January 1, 2027;

19 9. Adds language exempting the proposal from review and evaluation by the  
20 Department of Professional and Financial Regulation, Bureau of Insurance; and

21 10. Adds an appropriations and allocations section.

22 **FISCAL NOTE REQUIRED**

23 (See attached)

**132nd MAINE LEGISLATURE****LD 107****LR 62(02)****An Act to Require Health Insurance Coverage for Biomarker Testing****Fiscal Note for Bill as Amended by Committee Amendment****Committee: Health Coverage, Insurance and Financial Services****Fiscal Note Required: Yes****A (H-237)****Fiscal Note**

	<b>FY 2025-26</b>	<b>FY 2026-27</b>	<b>Projections FY 2027-28</b>	<b>Projections FY 2028-29</b>
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$1,163,349	\$2,287,608	\$2,289,253
Highway Fund	\$0	\$0	\$6,113	\$6,113
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$1,163,349	\$2,287,608	\$2,289,253
Highway Fund	\$0	\$0	\$6,113	\$6,113
Federal Expenditures Fund	\$0	\$2,158,291	\$4,258,602	\$4,260,285
Federal Block Grant Fund	\$0	\$12,773	\$25,546	\$25,546
<b>Revenue</b>				
Federal Expenditures Fund	\$0	\$2,158,291	\$4,258,602	\$4,260,286
Federal Block Grant Fund	\$0	\$12,773	\$25,546	\$25,546

**Fiscal Detail and Notes**

The bill includes General Fund appropriations to the Department of Health and Human Services of \$993,349 in fiscal year 2026-27 to provide coverage for biomarker testing in the MaineCare program beginning January 1, 2027 and to establish one Health Services Consultant position in the Office of MaineCare Services to conduct prior authorization work. Federal Expenditures Fund and Federal Block Grant Fund allocations are also included for the FMAP match.

The bill also includes General Fund appropriations to the Department of Administrative and Financial Services of \$170,000 for the estimated cost to reimburse insurance carriers for 6 months of the State's defrayal cost of this new mandate. The mandate will go into effect on all health insurance plans on the marketplace beginning January 1, 2027 and is estimated to cost \$340,000 annually thereafter.

The State Employee Health Plan's first impacted plan year will be fiscal year 2027-28 and is estimated to cost \$38,209 annually thereafter. The costs are split across the General Fund (\$17,576), Highway Fund (\$6,113) and all other funds (\$14,519).