

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

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Legislative Document

No. 2177

H.P. 1465

House of Representatives, January 27, 2026

An Act to Update and Improve the MaineCare Reimbursement System

Submitted by the Department of Health and Human Services pursuant to Joint Rule 203.
Reference to the Committee on Health and Human Services suggested and ordered printed.

R. B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative GATTINE of Westbrook.

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

2 **Sec. 1. 22 MRSA §1708, sub-§3,** as amended by PL 2021, c. 29, Pt. R, §1, is further
3 amended to read:

4 **3. Compensation for nursing homes.** A nursing home, as defined under section
5 1812-A, or any portion of a hospital or institution operated as a nursing home, when the
6 State is liable for payment for care, must be reimbursed at a rate established by the
7 Department of Health and Human Services pursuant to ~~this subsection~~ section 3173-J. ~~The~~
8 ~~department may not establish a so-called "flat rate."~~ This subsection applies to all funds,
9 including federal funds, paid by any agency of the State to a nursing home for patient care.
10 The department shall establish rules concerning reimbursement that:

11 A. Take into account the costs of providing care and services in conformity with
12 applicable state and federal laws, rules, regulations and quality and safety standards;

13 B. Are reasonable and adequate to meet the costs incurred by efficiently and
14 economically operated facilities;

15 C. Are consistent with federal requirements relative to limits on reimbursement under
16 the federal Social Security Act, Title XIX; and

17 D. ~~Ensure that any calculation of an occupancy percentage or other basis for adjusting~~
18 ~~the rate of reimbursement for nursing facility services to reduce the amount paid in~~
19 ~~response to a decrease in the number of residents in the facility or the percentage of the~~
20 ~~facility's occupied beds excludes all beds that the facility has removed from service for~~
21 ~~all or part of the relevant fiscal period in accordance with section 333. If the excluded~~
22 ~~beds are converted to residential care beds or another program for which the department~~
23 ~~provides reimbursement, nothing in this paragraph precludes the department from~~
24 ~~including those beds for purposes of any occupancy standard applicable to the~~
25 ~~residential care or other program pursuant to duly adopted rules of the department;~~

26 E. Contain an annual inflation adjustment that:

27 (1) ~~Recognizes regional variations in labor costs and the rates of increase in labor~~
28 ~~costs determined pursuant to the principles of reimbursement and establishes at~~
29 ~~least 4 regions for purposes of annual inflation adjustments; and~~

30 (2) ~~Uses the applicable regional inflation factor as established by a national~~
31 ~~economic research organization selected by the department to adjust costs other~~
32 ~~than labor costs or fixed costs; and~~

33 F. ~~Establish a nursing facility's base year every 2 years and increase the rate of~~
34 ~~reimbursement beginning July 1, 2014 and every year thereafter until June 30, 2018.~~
35 ~~For the state fiscal year beginning July 1, 2018, the base year for each facility is its~~
36 ~~fiscal year that ended in the calendar year 2016. For state fiscal years beginning on or~~
37 ~~after July 1, 2019, subsequent rebasing must be based on the most recent cost report~~
38 ~~filings available. The department may provide a mechanism for subsequent~~
39 ~~adjustments to base year costs to reflect any material difference between as filed cost~~
40 ~~reports used in rebasing and subsequent determinations of audited, allowable costs for~~
41 ~~the same fiscal period. The department's rules must provide that, beginning in the state~~
42 ~~fiscal year beginning July 1, 2018, the rates set for each rebasing year must include an~~
43 ~~inflation adjustment for a cost of living percentage change in nursing facility~~

1 ~~reimbursement each year in accordance with the United States Department of Labor,~~
2 ~~Bureau of Labor Statistics Consumer Price Index nursing homes and adult day care~~
3 ~~services index.~~

4 ~~Any rebasing done pursuant to this paragraph may not result in a nursing facility~~
5 ~~receiving a reimbursement rate that is lower than the rate in effect on June 30, 2018.~~

6 G. Subject to appropriation, establish that nursing facility reimbursement will be
7 rebased for rates effective January 1, 2028, and thereafter rebasing must occur in
8 accordance with section 3173-J.

9 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
10 chapter 375, subchapter 2-A.

11 **Sec. 2. 22 MRSA §1720**, as enacted by PL 2005, c. 242, §1, is repealed.

12 **Sec. 3. 22 MRSA §3173-J**, as amended by PL 2023, c. 238, §1, is further amended
13 to read:

14 **§3173-J. Rate-setting system for development and maintenance of sustainable,**
15 **efficient and value-oriented MaineCare payment models and rates**
16 **reimbursement of MaineCare-covered services**

17 This section establishes a rate-setting system for the development and maintenance of
18 ~~MaineCare payment models and rates reimbursement of MaineCare-covered services that~~
19 ~~comply complies~~ with the requirement in 42 United States Code, Section 1396a that rates
20 be consistent with efficiency, economy and quality of care; that ~~are is~~ adequate to support
21 MaineCare member access to services; and that ~~are is~~ equitable and data-driven.

22 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
23 following terms have the following meanings.

24 A. "Alternative payment model" means a health care payment model that uses
25 financial incentives to promote or leverage greater value for patients, purchasers,
26 payers or providers and that connects at least a portion of reimbursement to
27 performance on defined quality measures.

28 B. "MaineCare section of policy" means a set of MaineCare-covered services, as
29 categorized by the department through the adoption of rules that specify the parameters
30 for coverage.

31 B-1. "Payment model" means the method that the department uses to reimburse
32 providers for health care services, including whether the reimbursement is paid on a
33 ~~fee-for-service basis or another basis such as per member, per month or an estimated~~
34 ~~basis that is cost settled.~~

35 C. "Rate determination" means a process conducted by the department to establish the
36 ~~payment model, associated reimbursement rate methodology, base and, if applicable,~~
37 ~~the rate amount or payment model for a MaineCare section of policy or for a specific~~
38 ~~covered service, whether through adoption or adaptation of a benchmark rate or~~
39 ~~payment model from another payer or development through a rate study.~~

40 D. "Rate study" means an analysis conducted by the department or its contracted
41 vendor to develop a recommended ~~rate payment model, associated reimbursement~~
42 methodology and resulting ~~base rate amount and payment model based on the service~~

1 ~~model and cost components for the service amounts for current or potential MaineCare-
2 covered services. A rate study relies on data collected as part of the analysis conducted
3 by the department to inform the cost of providing services and resulting rates rather
4 than relying on a benchmark of existing rates or payment models used by other payers.~~

5 ~~E. "Reimbursement methodology" means the method for determining the rate or
6 reimbursement amount under the payment model. Examples of reimbursement
7 methodologies include using standardized assumptions for determining service cost
8 components, such as staffing levels, wages based on required qualifications, benefits
9 and program administration, to determine a reimbursement rate per unit of service;
10 using cost-based reimbursement, under which the MaineCare program determines the
11 percentage it will pay of reported allowable costs; and adjusting reimbursements for
12 patient acuity or the relative duration or intensity of the service.~~

13 **2. Rate-setting system principles and processes.** The department shall establish
14 MaineCare provider ~~payment models, including reimbursement rates, including those paid
15 through fee for service and alternative payment models. The rates must be established
16 methodologies and rate amounts, where applicable, in accordance with the following
17 principles and processes and adopted through rulemaking as described in subsection 3.~~
18 ~~Changes to rates required by the Federal Government to assist with emergency or
19 extraordinary circumstances or rate reductions required by the Legislature for the purpose
20 of responding to projected MaineCare budget shortfalls are not subject to this section.~~ The
21 department shall:

22 A. Develop annually a schedule of rate determination by MaineCare section of policy
23 in consultation with the MaineCare Rate Reform Expert Technical Advisory Panel
24 established under subsection 5 as follows:

- 25 (1) Post the rate determination schedule on its publicly accessible website;
- 26 (2) Provide an opportunity for the public to review and comment on the rate
27 determination schedule and make available a summary of these comments on its
28 publicly accessible website; and

29 (3) Conduct off-schedule rate determinations as the department finds appropriate;

30 B. Conduct or contract for, every 4 years, a comprehensive benchmarking report to
31 compare MaineCare rates for all services to those paid by Medicare, at least 5
32 comparison Medicaid states and any appropriate Maine commercial payers. The
33 department shall provide public notice of the initiation of the comprehensive
34 benchmarking process, provide an opportunity for the public to review and comment
35 on the draft report and make available a summary of these comments alongside the
36 final report;

37 C. No less frequently than once every 5 years, conduct a rate determination process
38 for each MaineCare section of policy or for a specific covered service, in accordance
39 with the following procedures:

- 40 (1) Provide public notice of initiation of the rate determination for a MaineCare
41 section of policy or for a specific covered service;
- 42 (2) Consider and, when appropriate, adopt alternative payment models that use
43 financial incentives to promote or leverage greater value for the MaineCare
44 program. This consideration must include a review of research on any available

1 national models or best practices regarding payment models for reimbursement
2 related to the service;

3 (3) Determine whether a Medicare rate is available for the service and whether the
4 Medicare rate represents the most appropriate benchmark and payment model
5 covers a specific service and whether the Medicare reimbursement methodology is
6 appropriate for a specific covered service;

7 (4) In the absence of a an appropriate Medicare rate comparison, determine
8 whether a rate from a review non-Medicare payer source sources, including, but
9 not limited to, commercial health care rates payers in the State or other states' Medicaid rates, is available for the service and whether this alternate payer rate
10 represents the most appropriate benchmark and payment model agencies. The
11 department shall determine an appropriate percentage of the benchmark rate for
12 the service, taking take into consideration the findings of the benchmarking report
13 conducted in accordance with paragraph B;

14 (5) Conduct a rate study for every service for which a benchmark rate or payment
15 model in accordance with an appropriate reimbursement methodology or
16 comparison under subparagraph (3) or (4) either is unavailable or is inconsistent
17 with the goals of efficiency, economy and quality of care to support member
18 access. Each rate study must include the following:

19 (a) A review of data, which must include:

20 (i) An assessment as to whether the delivery of service and associated
21 requirements have changed since the previous rate study, if available, to
22 determine if the rate payment model or reimbursement methodology needs
23 to should be revised;

24 (ii) The collection of data applicable to the rate determination on provider
25 costs and cost-related aspects of the delivery of service and associated
26 requirements through existing cost reports, provider surveys and other
27 available data sources; and

28 (iii) Research on any available national models or best practices regarding
29 cost-related aspects of the delivery of service and associated requirements;
30 and

31 (b) Developing or updating rates payment models or reimbursement
32 methodologies by considering the following:

33 (i) The appropriateness of adoption of a change in payment model or
34 reimbursement methodology consistent with the purposes of this section;

35 (ii) The current rate assumptions and their appropriateness given current
36 provider costs, best practices or changes in the delivery of service and
37 associated requirements;

38 (iii) The findings for related services of any comprehensive benchmarking
39 report under paragraph B; and

40 (iv) The degree to which services are dependent on MaineCare
41 reimbursement, including, but not limited to, cost factors, such as average

1 wage, that may be reflective of restraints of MaineCare reimbursement
2 versus costs of the broader marketplace; and

3 (6) Upon completion of the rate determination process, present the department's
4 rationale and recommendations for rate the payment model, associated
5 reimbursement methodology, and resulting base rate amount and payment model
6 amounts, if applicable, for public comment prior to the rule-making process;
7 convene a meeting of interested providers and other interested members of the
8 public to discuss the recommendations and hear comments; and respond in writing
9 to comments with an explanation of whether and how feedback was incorporated
10 into the final rate determination; and

11 D. Ensure that base rate amounts and other components of the reimbursement
12 methodology developed under paragraph C are updated to keep pace with changes in
13 the costs of delivering the service by:

14 (1) For rates benchmarked to Medicare rates ~~according to paragraph C,~~
15 ~~subparagraph (3), referencing Medicare rates for the most current year available,~~
16 ~~updated at least annually, and reviewing the current established percentage~~
17 ~~benchmark, as appropriate, taking into consideration the findings of the most recent~~
18 ~~benchmarking report conducted in accordance with paragraph B;~~

19 (2) For rates benchmarked to an alternate payer source ~~in accordance with~~
20 ~~paragraph C, subparagraph (4), updating rates to the most current year of data for~~
21 ~~that payer source at least once every 2 years and reviewing the current established~~
22 ~~percentage benchmark, as appropriate, taking into consideration the findings of the~~
23 ~~benchmarking report conducted in accordance with paragraph B; and~~

24 (3) For base rates determined through a rate study in accordance with paragraph
25 C, subparagraph (5), and subject to available funds as set forth in subsection 4,
26 providing an annual cost-of-living adjustment effective on a consistent date to be
27 established by the department for each service that has not received a rate
28 adjustment within the 12 months prior to the effective date of the cost-of-living
29 adjustment and for which the department determines benchmarking in accordance
30 with paragraph C, subparagraph (3) or (4) is not appropriate or advisable. In
31 establishing and implementing cost-of-living adjustments, the department shall:

32 (a) Use inflation indices ~~determined established through rulemaking to reflect~~
33 ~~a reasonable cost of providing services for different categories of services~~
34 ~~rather than reflecting other factors, such as private sector price increases or~~
35 ~~cost-shifting from different payers; and~~

36 (b) Maximize use of a single, consistent and general cost-of-living adjustment
37 index for services for which the costs of direct care staffing are the primary
38 driver of overall cost increases, consistent with the cost-of-living adjustment
39 applied to the minimum wage laws, in order to ensure that the cost-of-living
40 adjustment reflects increases to provider costs for delivering the service rather
41 than other factors, such as private sector price increases or cost-shifting from
42 different payers under Title 26, section 664, subsection 1. The department
43 shall:

(i) Apply this adjustment to services provided by essential support workers as defined in section 7401, subsection 3; and

(ii) For any services for which the department applies an adjustment equal to the increase in minimum wage, apply the adjustment to the reimbursement rate between 6 and 12 months after the minimum wage increase goes into effect.

3. Rulemaking for establishment of rate payment model and reimbursement methodology. In addition to the requirements of Title 5, chapter 375, rulemaking for MaineCare provider reimbursement rate methodologies must comply with the following. The department shall:

A. Establishment of a rate Conduct rulemaking to establish a payment model and reimbursement methodology for a new MaineCare section of policy or specific new service within a MaineCare section of policy or make changes to an existing rate payment model or reimbursement methodology must be adopted through rulemaking in accordance with the Maine Administrative Procedure Act. Rules adopted pursuant to this subsection must describe the payment model and reimbursement methodology but do not need to include codes, modifiers, reimbursement rates or any other information that the department includes in its centralized master index of rates posted on its publicly accessible website pursuant to subsection 7. Rulemaking is not required for the addition or deletion of new billing codes or to specify rates for specific billing codes if there is no change in the overall payment model or reimbursement methodology and the rates are posted in accordance with this section. Changes in rates resulting from application of the reimbursement methodology, including adjustments as a result of changes in the value or amount of components of the reimbursement methodology or changes to billing codes, do not require rulemaking as long as the reimbursement methodology remains the same; and

B. For services the department benchmarks to Medicare or other available payer rates for reimbursement, ~~the department shall~~ adopt a rule specifying the percentage, frequency of benchmark updates for alternate payer sources and other aspects of the benchmark methodology. Additional rulemaking is not required for rate changes tied to the adopted benchmark methodology, or for the addition of new billing codes, unless the department changes the benchmarking percentage or methodology.

C. No later than July 1, 2023, the department shall adopt a rule specifying the appropriate cost of living adjustment methodology for different types of services in accordance with subsection 2, paragraph D, subparagraph (3). Additional rulemaking is not required for rate increases tied to annual cost of living adjustment increases unless the department changes the cost of living adjustment methodology.

Rulemaking is not required for rate adjustments tied to annual cost-of-living adjustment increases unless the department changes the cost-of-living adjustment methodology.

Rules adopted pursuant to this subsection may incorporate by reference any part of a code, standard, rule, regulation or schedule or any other source considered appropriate by the department. Notwithstanding any provision of law to the contrary, rules adopted pursuant to this subsection are not subject to Title 5, section 8056, subsection 1, as long as the rules identify the incorporated matter by title or source, as appropriate.

1 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
2 chapter 375, subchapter 2-A unless rules to adopt MaineCare reimbursement rates are
3 designated as major substantive rules in another section of law.

4 **4. Funding.** The department may use funds from the MaineCare Stabilization Fund
5 established in section 3174-KK in order to fund the rate reimbursement adjustments made
6 in accordance with this section when funding may be needed in addition to appropriations
7 associated with separate initiatives. Adjustments to reimbursements made using the
8 MaineCare Stabilization Fund are not considered permanent until ongoing appropriations
9 and allocations funding the adjustments are made.

10 Reimbursement adjustments are subject to the availability of appropriations. The
11 department may reduce reimbursement adjustment amounts, including otherwise specified
12 cost-of-living adjustment amounts, in proportion to available funding, including
13 elimination of a scheduled adjustment if funding is unavailable.

14 If sufficient funds are not appropriated for reimbursement adjustments in accordance with
15 this section and there are not sufficient funds available in the MaineCare Stabilization Fund
16 for this purpose, the department may prioritize the following, proportional to any funding
17 for reimbursement adjustments that may be available:

18 A. Reimbursement adjustments resulting from any rate determinations for MaineCare
19 sections of policy or services that do not yet have reimbursement established through
20 a rate determination under this section; and

21 B. Reimbursement adjustments for services for which there is evidence of issues
22 related to member access.

23 **5. MaineCare Rate Reform Expert Technical Advisory Panel.** The MaineCare
24 Rate Reform Expert Technical Advisory Panel, referred to in this subsection as "the panel,"
25 is established for the purpose of advising the commissioner by providing technical,
26 nonpartisan, 3rd-party expertise to inform the department's planned schedule and actions
27 on rate assumptions, payment models and other related technical matters. The panel may
28 not propose rates or methodologies. The commissioner or the commissioner's designee
29 shall serve as chair.

30 A. The panel includes the following members:

- 31 (1) A representative from the Maine Health Data Organization;
- 32 (2) A representative from the Department of Professional and Financial
33 Regulation, Bureau of Insurance;
- 34 (3) A representative from the Department of Professional and Financial
Regulation;
- 36 (4) A representative from the department's division of licensing and certification;
- 37 (5) A representative from the Office of Affordable Health Care;
- 38 (6) A representative from the Department of Labor; and
- 39 (7) A representative from the Department of Administrative and Financial
40 Services.

41 B. The panel shall:

8 C. The panel shall meet at least ~~twice~~ once per year and as otherwise convened by the
9 commissioner. Meetings of the panel are public, and the panel shall provide public
10 notice of each meeting and an opportunity for public comment.

11 **6. MaineCare Advisory Committee.** The MaineCare Advisory Committee, required
12 by 42 Code of Federal Regulations, Section 431.12 and further described in department
13 rules, and referred to in this subsection as "the committee," shall participate in the
14 department's rate-setting system in accordance with this subsection.

15 A. The committee must include a permanent rate system subcommittee that allows
16 broad participation by the full spectrum of types of MaineCare providers. Participation
17 in the rate system subcommittee may not be limited by number or type of stakeholder
18 in order to allow for participation by any stakeholder affected by MaineCare
19 reimbursement policy and interested in participating in the work of the subcommittee.

20 B. At each meeting of the committee or rate system subcommittee, if requested by the
21 chair of the committee or rate system subcommittee, the department shall provide
22 updates on the department's planned and completed activities under this section for
23 discussion and advisement, including, but not limited to, the following:

- (1) Schedule and status of rate determination, planned and in progress, by MaineCare section of policy;
- (2) Status of and plans for comprehensive benchmarking studies; and
- (3) Contemplated rulemaking to establish rate methodology payment models and reimbursement methodologies resulting from rate determination processes.

29 C. The rate system subcommittee may formulate and present recommendations to the
30 committee pertaining to the department's activities under this section.

31 **7. Index of MaineCare rates by service code; publicly accessible website.** The
32 department shall maintain and annually update a centralized master index of rates by
33 service code and post this index on its publicly accessible website. The index ~~must~~ may
34 contain the following, as applicable:

35 A. The service code, including any modifiers that affect reimbursement;

36 B. The current year rate;

37 C. The source for the rate, including, but not limited to, Medicare or alternate payer

38 benchmark, rate study or other source, and the year and the author of the review, study

39 or report that justified the rate;

40 D. The year the **base** rate was last updated prior to the application of any subsequent

41 cost-of-living adjustments;

- 1 E. Whether the rate is subject to cost-of-living adjustments and, if so, the identity of
- 2 the benchmark index;
- 3 F. The section of MaineCare policy pursuant to which the rate was adopted; and
- 4 G. The target date for the next rate review.

5 In addition to the index, the department shall post on its publicly accessible website all rate
6 studies, benchmark reports and other materials used by the department to develop the
7 reimbursement rates and payment models.

8 **8. Notice prior to implementation.** For planned rate changes that do not require
9 rulemaking as described in subsection 3, the department shall provide notice prior to
10 implementation, of no less than 30 calendar days for cost-of-living adjustments and no less
11 than 7 calendar days for Medicare fee schedule changes or the addition of new service
12 codes, to stakeholders who request to receive such notice.

13 **Sec. 4. 22 MRSA §7403**, as enacted by PL 2021, c. 398, Pt. AAAA, §1, is repealed.

SUMMARY

15 This bill updates certain definitions and rule-making requirements related to the
16 establishment of a MaineCare payment model and the determination of MaineCare
17 reimbursements for covered services.