

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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of 18 years. No person in the business of selling or otherwise distributing cigarettes or other tobacco products for profit, or an employee or agent of such a person, may, in the course of his business, distribute any cigarette or other tobacco product free to any children under the age of 18 years in any place, including, but not limited to, a public way or sidewalk, public park or playground, public school or other public building, or an entranceway, lobby, hall or other common area of a private building, shopping center or mall.

2. Penalty. Violation of this section shall result in a fine of not less than \$20 nor more than \$50 for each violation.

Effective September 23, 1983.

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## CHAPTER 240

H.P. 823 - L.D. 1063

### AN ACT to Amend the Statutory Requirements Pertaining to Medicaid Copayments.

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

Whereas, Public Law 1981, chapter 703, Part A, sections 22 to 24, passed during the Fourth Special Session of the 110th Legislature, provided for the imposition of certain copayment requirements on recipients of Medicaid services; and

Whereas, these provisions of Public Law 1981, chapter 703, are in conflict with federal law, as amended by the "Tax Equity and Fiscal Responsibility Act of 1982"; and

Whereas, these provisions of Public Law 1981, chapter 703, will render the State of Maine's Medicaid program in noncompliance with federal law if not repealed or amended sooner than 90 days after adjournment; and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:

22 MRSA §3173-C, as enacted by PL 1981, c. 703, Pt. A, §24, is repealed and the following enacted in its place:

§3173-C. Copayments

1. Authorization required. The department shall not require any Medicaid recipient to make any payment toward the cost of an approved Medicaid service unless that payment is specifically authorized by this section.

2. Prescription drug services. Except as provided in subsections 3 and 4, a payment of 50¢ is to be collected from the Medicaid recipient for each drug prescription which is an approved Medicaid service.

3. Exemptions. No copayment may be imposed with respect to the following services:

A. Family planning services;

B. Services furnished to individuals under 21 years of age;

C. Services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility or other medical institution, if that individual is required, as a condition of receiving services in that institution, to spend for costs of medical care all but a minimal amount of his income required for personal needs;

D. Services furnished to pregnant women, and services furnished during the post-partum phase of maternity care to the extent permitted by federal law;

E. Emergency services, as defined by the department;

F. Services furnished to an individual by a Health Maintenance Organization, as defined in the United States Social Security Act, Section 1903(m), in which he is enrolled; and

G. Any other service or services required to be exempt under the provisions of the United States Social Security Act, Title XIX and successors to it.

4. Persons in state custody. Any copayment

imposed on a Medicaid recipient in the custody of the State is to be collected from the state agency having custody of the recipient.

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

Effective May 6, 1983.

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## CHAPTER 241

H.P. 867 - L.D. 1115

AN ACT to Amend the Probate Code.

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

Sec. 1. 18-A MRS.A §5-303, sub-§(b), as enacted by PL 1979, c. 540, §1, is amended to read:

(b) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity and unless the allegedly incapacitated person has counsel of his own choice, it may appoint an appropriate official or attorney to represent him in the proceeding, who shall have the powers and duties of a guardian ad litem. The person alleged to be incapacitated shall be examined by a physician or by a licensed psychologist acceptable to the court who shall submit his report in writing to the court. The court may appoint a visitor who shall interview the allegedly incapacitated person and the person who is seeking appointment as guardian, and visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that he will be detained or reside if the requested appointment is made, and submit his report in writing to the court. The person alleged to be incapacitated is entitled to be present at the hearing in person, and to see and hear all evidence bearing upon his condition. He is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the physician and the visitor. The issue may be determined at a closed hearing if the person alleged to be incapacitated or his counsel so requests.

Sec. 2. 18-A MRS.A §5-407, sub-§(b), as enacted by PL 1979, c. 540, §1, is amended to read:

(b) Upon receipt of a petition for appointment