

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 scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1972

H. P. 1911

Office of the Clerk of the House

The Committee on Health and Institutional Services suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. Goodwin of South Berwick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

AN ACT Concerning the Catastrophic Illness and Medically Needy Programs.

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

Sec. 1. 22 MRSA § 3172, sub-§ 1-A, is enacted to read:

1-A. Application. "Application" refers to those forms used to determine a person's eligibility for a particular program under this chapter, which are required by the department to be duly completed by or with the prospective recipient. "Application" further refers to those forms required by the department for its determination of continuing eligibility through periodic recertification of the recipient.

Sec. 2. 22 MRSA § 3173, as amended by PL 1977, c. 582, § 2, is repealed and the following enacted in its place:

§ 3173. Powers and duties of department

The department is authorized to administer programs of aid, medical or remedial care and services for medically indigent persons. It is empowered to employ, subject to the Personnel Law, such assistants as may be necessary to carry out this program and to coordinate their work with that of the other work of the department.

The department is authorized and empowered to make all necessary rules and regulations, consistent with the laws of the State, for the administration of these programs, including, but not limited to, establishing conditions of eligibility and types and amounts of aid to be provided, and defining the term "medically indigent," and the type of medical

care to be provided. In administering programs of aid, the department shall, among other services, emphasize developing and providing financial support for preventive health care and home care in order to assure that a comprehensive range of health care services is available to Maine citizens. Preventive health services shall include, but need not be limited to, programs such as early periodic screening, diagnosis and treatment; public school nursing services; child and maternal health services; and dental health education services. To meet the expenses of emphasizing preventive health care and home health care, the department is authorized to expend for each type of care no less than 1.5% of the total sum of all funds available to administer medical or remedial care and services eligible for participation under the United States Social Security Act, Title XIX and amendments and successors to it.

The department shall provide all applicants for aid under this chapter with information, in written form, and verbally as appropriate or if requested, about coverage, conditions of eligibility, scope of programs, existence of related services and the rights and responsibilities of assistance under this chapter.

All signed and completed applications for aid under this chapter shall be acted upon and a decision made as soon as possible, but in no case shall the department fail to notify the applicant of its decision within 30 days after receipt of this application. Failure of the department to meet the requirements of this 30-day time standard, except where there is documented noncooperation by the applicant or his physician, shall lead to the immediate and automatic issuance of a temporary medical card which shall be valid only until such time as the applicant receives actual notice of a departmental denial of his application or he receives a replacement medical card. Any benefits received by the applicant during the interim period when he has actual use of the temporary medical card shall not be recoverable by the department in any legal or administrative proceeding against the applicant.

Whenever an applicant is determined by the department to be ineligible for a program for which he has applied, he shall be immediately so notified in writing. Any such notification of denial shall contain a statement of the denial action, the reasons for denial, the specific regulations supporting the denial, an explanation of the applicant's right to request a hearing and a recommendation to the applicant of any other program administered by the department for which he may be eligible. Whenever an individual's application for Aid to Families with Dependent Children is denied by the department, the application shall be immediately forwarded to personnel in the medically needy program whose duty it shall be to mail to the applicant's last known address a supplemental information form which, when completed by the applicant, shall be used to determine that applicant's eligibility for the medically needy program.

Any applicant for benefits under the medically needy program whose countable income exceeds the applicable state protected income level maximum shall be eligible for the program when his incurred medical expenses are found to exceed the difference between his countable income and the applicable state maximum. Whenever the applicant incurs sufficient medical expenses to be eligible for the medically needy program and provides reasonable proof thereof to the department, a medical card shall be issued within 10 days of the presentation of such proof if the information provided to the department at the time of his pending application has not changed significantly during the spend-down period. If that information has changed significantly, thereby requiring substantial effort on the part of the department to verify the newly supplied information, a medical card shall be issued

within 30 days of the presentation of reasonable proof of the applicant's eligibility. Failure of the department to meet the requirements of this bifurcated time standard, except where there is documented noncooperation by the applicant or his physician, shall lead to the immediate and automatic issuance of a temporary medical card which shall be valid only until such time as the applicant receives actual notice of a departmental denial of his application or he receives a replacement medical card. Any benefits received by the applicant during the interim period when he has actual use of the temporary medical card shall not be recoverable by the department in any legal or administrative proceeding against the applicant.

In all situations where prior authorization of the department is required before a particular medical service can be provided, the department shall respond to the request for treatment within 30 days of the completion and presentation of that request to the department. The department's response to such a request shall be supplied to both the provider and the recipient. Whenever the provider is unable or unwilling to provide the service requested within a reasonable time after approval of the request by the department, the recipient shall have the right to locate another approved provider whose sole duty shall be notification of the department of his intention to provide the service subject to the original approval.

The department shall make and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files and communications of the department. The use of those records, papers, files and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished and by the law under which they may be furnished.

The department shall initiate and monitor ongoing efforts performed cooperatively with other public and private agencies, religious, business and civic groups, pharmacists and other medical providers, professional groups, community organizations, unions, news media and other groups, organizations and associations to inform low-income households eligible for programs under this chapter of the availability and benefits of these programs and to insure the participation of eligible households which wish to participate by providing such households with reasonable and convenient access to the programs.

All moneys made available to fund programs authorized by this chapter shall be expended under the direction of the department, and the department is empowered to direct the expenditures therefrom of those sums which may be necessary for purposes of administration.

Relating to the determination of eligibility for medical care to be provided to a beneficiary of state or federal supplemental income for the blind, disabled and elderly, the department may enter into an agreement with the Secretary, United States Department of Health, Education and Welfare, whereby the secretary shall determine eligibility on behalf of the department.

Sec. 3. 22 MRSA § 3179, as enacted by PL 1973, c. 790, § 2, is amended by adding at the end the following new paragraphs:

Any recipient of aid under this chapter whose categorical assistance benefits are terminated by the department shall be notified of the effect that that termination will have on his medical assistance. The department shall forward to the recipient's last known address, in a separate notice mailed no earlier than 45 days prior to the proposed termination of his medical benefits, an application for the medically needy program. The

application shall be supplied to the recipient at such time as to assure continuation of medical benefits if that recipient acts diligently in completing that application and is found by the department to be eligible for continued medical benefits.

When a recipient is determined to be ineligible to continue receiving benefits under the Aid to Families with Dependent Children program solely because of either his failure to meet an Aid to Families with Dependent Children eligibility factor which does not apply to the medically needy program or an excess of income, where his total countable income does not exceed 133 1/3% of the amount equal to the public welfare standards applicable to the recipient, the department shall automatically transfer him to the medically needy program, thereby not disrupting the recipient's medical coverage.

Sec. 4. 22 MRSA § 3185 is enacted to read:

§ 3185. Medical expenses for catastrophic illness

The Department of Human Services is authorized to provide financial assistance to, or in behalf of, families of individuals whose costs for hospital inpatient or outpatient care, physicians' services, drugs, appliances and other related services, including skilled nursing home care as defined by the department and as determined by the department to be necessary, cannot be met from their own or other sources, when those costs are of such magnitude as to constitute a financial catastrophe for those families or individuals, or when it can be determined that medical indigency exists. Skilled nursing home care shall be an eligible service only when the patient is admitted to a skilled nursing facility within 7 days of discharge from a general hospital, following a minimum inpatient stay of at least 5 days. Eligibility for payment for skilled nursing home care shall be for a maximum of 60 days in any one year, or in association with any one illness episode.

Application for assistance through the Catastrophic Medical Expense Fund shall be made by the individual who is, or has been, receiving the care for which financial assistance is being sought, or by a person who is legally responsible for those costs, or by a legal representative of that individual. Assistance shall be available through this fund only in behalf of specific individuals, and only for those who are not eligible for aid through federally matched medical care programs as administered in Maine and it shall terminate when any similar federal program becomes effective. The Governor shall determine by proclamation when that federal program has become effective. Eligibility for, and aid through, this fund shall be on a year-to-year basis, and eligibility and amount of aid shall be determined only after the full application to the costs of medical care in any one year of all applicable health care insurance benefits, other 3rd party payor benefits legally provided for, or liability benefits identified as being for medical or rehabilitative care. From all net income before taxes received by the applicant or those legally responsible for the costs of the applicant's care, 25% shall be assumed to be applicable to the liabilities for the care for which assistance is being sought. If the applicant has, or those legally responsible for the applicant's care have, or they jointly have, a net worth in excess of \$25,000, and the excess net worth includes cash or readily cashable assets, then 15% of that cash or cashable assets shall be assumed to be applicable to the liabilities for care. No reimbursements shall be made for bills already paid. Payments from this fund shall only be made directly to the vendors or providers of care. This section shall not be deemed to create any rights or causes of action against the State in such a vendor or provider of care, his heirs or assigns. When eligibility has been established, the department may make payments from this fund, during the remainder of the year of eligibility, for those goods and services provided for in this section. In addition to other payments authorized by this section, the department shall,

upon receipt of an accounting as authorized under Title 37-A, section 207-A, transfer to the Department of Defense and Veterans Services a sum not to exceed \$10,000 from money appropriated pursuant to this section as reimbursement for costs of rendering emergency medical services, including, but not limited to, the costs of liability insurance.

Medical indigency and eligibility for assistance under this section are to be defined and determined in manners consistent with the requirements for the receipt of federal matching funds under Title XIX, or its successors, of the Social Security Act.

An applicant shall be an adult who requires care and assistance, an adult legally responsible for the care of another or an adult who is legally responsible for the care of, and is applying in behalf of, one or more dependent minor children. Applications may be made in behalf of those applicants by their legal representatives.

The income factor of eligibility shall be met if, after reducing all income received by or available to the applicant by the liabilities for the kinds of goods and services provided for in this section, the residual income does not exceed 133% of an amount equal to the public welfare standards applicable to the applicant.

The application of any available insurance, other 3rd party liabilities or other benefits to which the applicant may be entitled or the determination of other eligibility factors shall be in accordance with federal matching requirements.

The Department of Human Services shall adopt and promulgate the additional rules and regulations which may be necessary for proper, equitable and effective administration of this section.

Prior to the adoption, amendment or repeal of any rules or regulations, the department shall hold a public hearing to afford interested persons the opportunity to submit suggestions orally or in writing. At least 35 days prior to any public hearing and for a period of 5 days, the department shall publish notice of the time and place of that public hearing in appropriate newspapers throughout the State. At least 30 days prior to that hearing, the department shall make copies of all proposed rules, regulations or changes available to any interested person. Any proposed rules, regulations or changes shall be published within 30 days following the public hearing. Any person aggrieved by any decision of the department, including the promulgation of any rules, regulations or changes, may complain within 30 days of the decision or the publication of the rules, regulations or changes to the Administrative Court Judge. The decision or rule of the department may be stayed by the Administrative Court Judge until a final decision on the complaint is rendered. The adoption, amendment or repeal of any rule shall be effective after a 60-day review period following the public hearing.

Any balances of funds appropriated for medical expenses under this section shall not lapse, but shall be carried forward from year to year to be expended for the same purpose.

Sec. 5. 22 MRSA § 3283, as enacted by PL 1975, c. 623, § 30, and as amended, is repealed.

STATEMENT OF FACT

The purpose of this bill is 2-fold. On the one hand, this bill will modify the Catastrophic Illness Program to make it available to individuals in a truly catastrophic situation as regards to medical bills. These are individuals who are not eligible for Medical Needy

Programs, but due to the present spend-down requirement are not eligible for the Catastrophic Illness Program.

The 2nd purpose of this bill is to improve the administration of the Medical Needy Program. This is done by expediting the application process and establishing guidelines for the department in processing applications.