

MAINE STATE LEGISLATURE

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(Emergency)
(New Draft of S.P. 76, L.D. 162)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 913

S.P. 311

In Senate, March 24, 1987

Reported by Senator Gauvreau for the Committee on Human Resources and printed under Joint Rule 2. Original Bill sponsored by Senator Twitchell of Oxford. Cosponsored by: Representative Jackson of Harrison.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 **AN ACT to Provide a Base-year Budget**
2 **Correction Adjustment for Hospital**
3 **Financial Requirements.**
4

5 **Emergency preamble.** Whereas, Acts of the Legis-
6 lature do not become effective until 90 days after
7 adjournment unless enacted as emergencies; and

8 Whereas, certain Maine hospitals that reasonably
9 expended more than they had budgeted for their base
10 years may require an immediate increase in revenues
11 in order to meet their current obligations and con-
12 tinue to provide care of acceptable quality; and

1 Whereas, the Maine Health Care Finance Commission
2 cannot provide for those increases in revenues under
3 current law; and

4 Whereas, in the judgment of the Legislature,
5 these facts create an emergency within the meaning of
6 the Constitution of Maine and require the following
7 legislation as immediately necessary for the preser-
8 vation of the public peace, health and safety; now,
9 therefore,

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

12 Sec. 1. 22 MRS §396-D, sub-§9-A is enacted to
13 read:

14 9-A. Base-year budget adjustment. In determin-
15 ing financial requirements for the 3rd payment year,
16 or any subsequent payment year, the commission upon
17 application of a hospital, may elect to make a
18 base-year budget correction adjustment as follows:

19 A. An adjustment under this subsection shall be
20 based upon a determination of the excess of:

21 (1) The applicant hospital's actual audited
22 Medicare allowable costs for its base year,
23 adjusted to conform to the definition of
24 base-year financial requirements established
25 in accordance with section 396-A; and

26 (2) Its base-year financial requirements
27 determined in accordance with section 396-B.

28 B. In determining the amount of the excess upon
29 which an adjustment may be based, the commission:

30 (1) Shall consider the extent to which oth-
31 er adjustments have been made under this
32 section for changes that occurred during the
33 base year; and

34 (2) Shall adjust the amount determined un-
35 der subsection A to reflect the impact, de-
36 termined by means of the economic trend fac-

1 tor established in accordance with subsection
2 1, of inflation from the base year
3 through the payment year prior to the year
4 for which an adjustment has been requested.

5 C. The commission shall make an adjustment for
6 all or part of the excess determined in accordance
7 with paragraphs A and B, to the extent that
8 the commission finds that the adjustment is in
9 the public interest. In determining whether the
10 adjustment is in the public interest and, if so,
11 in what amount the adjustment shall be made, the
12 commission shall consider the following factors,
13 as well as any other factors pertinent to the
14 findings and purposes set forth in section 381:

15 (1) The hospital's justification for exceeding
16 its budget as approved by the voluntary
17 budget review organization;

18 (2) The hospital's costs, volume and intensity
19 of services as compared to other comparable
20 hospitals;

21 (3) The hardship to the hospital in the absence
22 of treatment under this section; and

23 (4) The impact on quality and accessibility
24 to health care.

25 D. No hospital may receive more than one adjust-
26 ment under this subsection, nor shall any hospi-
27 tal be eligible for such an adjustment if the
28 commission, after hearing, has made a final deci-
29 sion denying the adjustment. An adjustment under
30 this subsection shall become part of payment year
31 financial requirements for purposes of computing
32 subsequent payment year requirements pursuant to
33 section 396-C.

34 **Sec. 2. 22 MRSA §398, sub-§2, as enacted by PL**
35 **1983, c. 579, §10, is amended to read:**

36 **2. Interim adjustments.** Upon application by a
37 **hospital, affiliated interest, payor or group of pur-**
38 **chasers, for an interim adjustment to financial re-**
39 **quirements permitted under section 396-D, or upon ap-**

1 plication by a payor or group of purchasers for a
2 modification of its approved differential or of the
3 apportionment of the gross patient service revenue,
4 and after opportunity for hearing, a final order
5 shall be promulgated within 120 days from the date a
6 completed application was filed, except that the com-
7 mission may extend the 120-day period by an addition-
8 al 60 days with respect to an application for an ad-
9 justment under section 396-D, subsection 9-A. Any
10 proposed change shall take effect upon the date spec-
11 ified in the order. At any time during the period be-
12 tween the filing date and the commission's final de-
13 cision on the request, the commission may extend pro-
14 visional approval to any part of the request. This
15 provisional approval shall be superseded by the com-
16 mission's final decision on the request. The commis-
17 sion may establish reasonable limits on the frequency
18 of requests filed under this subsection.

19 Emergency clause. In view of the emergency cited
20 in the preamble, this Act shall take effect when ap-
21 proved.

22 FISCAL NOTE

23 There is a maximum potential fiscal impact asso-
24 ciated with this bill of \$111,000. However, due to
25 various factors affecting Medicaid reimbursement and
26 hospital operations, this maximum will not be
27 achieved. Therefore, any additional cost will be
28 minimal and can be absorbed within existing resources
29 of the Department of Human Services.

30 STATEMENT OF FACT

31 This new draft replaces the bill and adds an
32 emergency preamble and emergency clause.

33 This new draft enables the Health Care Finance
34 Commission to respond more flexibly to the concerns
35 expressed by hospitals whose base-year budgets, as
36 approved by the Voluntary Budget Review Organization

1 (VBRO) are less than the total amount that was actu-
2 ally expended in that year. This is accomplished by
3 authorizing a new adjustment that may be made to fi-
4 nancial requirements in the 3rd or subsequent payment
5 year.

6 Section one of the bill would allow the commis-
7 sion to add an appropriate amount, up to the total
8 difference between actually incurred, allowable costs
9 and the voluntary budget review organization budgeted
10 base. The bill would require the commission, in de-
11 ciding on an appropriate amount, to consider the ef-
12 fect on the public interest, based on information
13 such as the reasons that the hospital exceeded its
14 approved budget; the relative costliness, volume and
15 intensity of the hospital's services; the hardship to
16 the hospital; quality and accessibility of care; and
17 general consistency with the legislative goals of
18 Maine's hospital care financing system. Under this
19 bill, the budget correction adjustment could be re-
20 quested for the 3rd or any subsequent payment year.
21 The 3rd payment year is already in progress for many
22 hospitals.

23 Recognizing that this adjustment, which requires
24 case by case examination of the hospitals that quali-
25 fy for it, will add to the commission's workload.
26 Section 2 of the bill allows the commission to take
27 an extra 60 days to process interim adjustment re-
28 quests for base-year budget corrections.

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