

# 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)



1     §372. Differentials

2           1. Differential or discount. Effective October  
3 1, 1987, it shall be unlawful for any hospital to offer  
4 any differential or discount to any nongovernmental  
5 payer with respect to hospital services. For the  
6 purposes of this subsection, nongovernmental payers  
7 include any entity or purchaser, other than the  
8 Medicare or Medicaid programs, which is responsible  
9 for payment for health care services rendered by a  
10 hospital.

11           2. Prompt payment differential. Notwithstanding  
12 subsection 1, a hospital may offer a prompt payment  
13 differential to any payer based solely on the value  
14 of prompt payment made by the payer to the hospital.  
15 Any prompt payment differential shall be based on the  
16 cost of money and shall be adjusted annually.

17           3. Hospital services. For purposes of this section,  
18 "hospital services" means inpatient or outpatient  
19 acute care health services offered in a hospital.  
20 Differential or discount" means any lesser  
21 amount of charges made to, or payments accepted from,  
22 different payers or purchasers for the same service  
23 or group of services, but shall not include amounts  
24 not charged or collected because of a person's financial  
25 inability to pay.

26     §373. Health Care Data and Information Program

27           1. Health Care Data and Information Program.  
28 There is established the Health Care Data and Information  
29 Program within the Department of Human Services. The  
30 Department of Human Services through this  
31 program shall:

32           A. Support a data collection, validation, storage  
33 and retrieval program that provides information  
34 on price, accessibility and appropriate indicators  
35 of quality health care services to purchasers,  
36 consumers and providers of health care,  
37 governmental agencies and research and advisory  
38 institutions and agencies;

39           B. Adopt rules governing the form, medium, content  
40 and time pursuant to which each hospital

1 shall file the following information with the  
2 department:

3 (1) Financial information, including costs  
4 of operation, revenues, assets, liabilities,  
5 fund balances, other income, rates, charges,  
6 units of services, wage and salary data and  
7 such other financial information as the de-  
8 partment deems necessary in the performance  
9 of its duties;

10 (2) Scope of service information, including  
11 bed capacity, by service provided, special  
12 services, ancillary services, physician pro-  
13 files in the aggregate by clinical special-  
14 ties, nursing services and such other scope  
15 of service information as the department  
16 deems necessary for the performance of its  
17 duties; and

18 (3) A completed uniform hospital discharge  
19 data set, or comparable information, for  
20 each patient discharged from the facility  
21 after October 1, 1987;

22 C. Contract with any entity, including an inde-  
23 pendent data organization, to store discharge da-  
24 ta filed with it. For purposes of this subsec-  
25 tion, "independent data organization" means an  
26 organization of data users, a majority of whose  
27 members are not providers of health care, organi-  
28 zations representing providers of health care nor  
29 individuals affiliated with those providers or  
30 organizations, and whose purposes are the cooper-  
31 ative collection, storage and retrieval of health  
32 care information;

33 D. Direct the transfer to its possession and  
34 control of all discharge data required to have  
35 been filed with an independent data organization  
36 pursuant to the health facilities information  
37 disclosure law, chapter 105, prior to July 1,  
38 1983, or with the Maine Health Care Finance Com-  
39 mission, pursuant to chapter 107, subchapter II,  
40 prior to October 1, 1987;

1 E. In establishing uniform systems of reporting  
2 financial and health care information under this  
3 section, take into account the data requirements  
4 of other relevant programs and reporting systems  
5 previously established by the Maine Health Care  
6 Finance Commission;

7 F. Promulgate rules governing the maintenance of  
8 data collected pursuant to this section. It is  
9 the intention of this section to encourage the  
10 analysis of that data by payers, providers and  
11 consumers for the purpose of making informed  
12 judgments regarding the availability, quality and  
13 cost of health care;

14 G. Provide for protection of patient privacy and  
15 patient-physician confidentiality and for review  
16 and comments by providers on any data developed  
17 relating to the provider service, prior to dis-  
18 closure; and

19 H. Develop arrangements and protocols for re-  
20 lease of data to purchasers, consumers and  
21 providers of health care services, government  
22 agencies and research and advisory institutions  
23 and agencies.

24 2. Funding. The program shall be financed by  
25 the assessments provided in section 376.

26 §374. Access to hospital care

27 Medically necessary hospital care shall be avail-  
28 able to every resident of this State regardless of  
29 that person's financial resources or geographic loca-  
30 tion. No person may be denied those services solely  
31 on the basis of ability to pay. This chapter and re-  
32 lated laws shall be construed to promote access to,  
33 and the availability of, hospital care.

34 Any violation of this section shall be enforced  
35 by the department as appropriate pursuant to its au-  
36 thority under section 1817.

37 §375. Hospital Transition Fund

1           1. Establishment. The Hospital Transition Fund  
2 is established in the Department of Human Services  
3 for the purpose of assuring access and availability  
4 of necessary and essential hospital health care ser-  
5 vices to the people of the State.

6           2. Funding. The fund shall be financed by the  
7 assessments provided in section 376.

8           3. Administration. The fund shall be adminis-  
9 tered by the Office of Health Planning and Develop-  
10 ment as follows.

11           A. The Treasurer of State shall be the custodian  
12 of the fund. Upon receipt of vouchers signed by  
13 a person or persons designated by the department,  
14 the State Controller shall draw a warrant on the  
15 Treasurer of State for the amount authorized. A  
16 duly attested copy of the resolution of the de-  
17 partment designating these persons and bearing on  
18 its face specimen signatures of these persons  
19 shall be filed with the State Controller as his  
20 authority for making payments upon the vouchers.

21           B. The department shall cause these funds to be  
22 invested and reinvested.

23           C. The department shall publish a report annual-  
24 ly, showing fiscal transactions of funds for the  
25 fiscal year and the assets and liabilities of the  
26 fund to the end of the fiscal year.

27           4. Disbursements from fund. Any hospital may  
28 apply to the department to receive disbursements from  
29 the fund.

30           5. Findings. The department shall make findings  
31 governing the approval of disbursements from the fund  
32 which, at a minimum, shall require the applicant hos-  
33 pital to establish that:

34           A. Without the proposed funds or management sup-  
35 port, a significant impairment in the efficiency,  
36 quality and accessibility of hospital care pro-  
37 vided by it will occur;

1 B. The applicant hospital is fit, willing and  
2 able to utilize the requested funds or management  
3 support to provide hospital services at the ap-  
4 propriate standard of care;

5 C. There is a positive effect on the projected  
6 operating budget of the applicant hospital and  
7 its ability to operate the facility or provide  
8 services in accordance with licensure regula-  
9 tions;

10 D. There is a public need for the infusion of  
11 financial or management support to the applicant  
12 hospital; and

13 E. The provision of management and support ser-  
14 vices to the applicant hospital is consistent  
15 with the orderly and economic development of  
16 health facilities and resources in the State.

17 6. Criteria. In making its findings under para-  
18 graph E, the department, among other criteria, shall  
19 consider the following:

20 A. The relationship of the provision of finan-  
21 cial and management support to the applicant  
22 hospital's health services and capital require-  
23 ment plans;

24 B. The impact of the proposed provision of fi-  
25 nancial and management support on the current and  
26 projected needs of the population served by the  
27 applicant hospital;

28 C. The availability of less costly alternatives  
29 or more effective methods of addressing the cur-  
30 rent and projected needs of the population served  
31 by the applicant hospital;

32 D. The availability of other resources, includ-  
33 ing health personnel, management personnel, funds  
34 for capital and operating needs and appropriate  
35 financial support from its community to the ap-  
36 plicant hospital;

37 E. The probable impact of the provision of fi-  
38 nancial and management support to the applicant

1 hospital on the costs of providing hospital ser-  
2 vices;

3 F. The gains that may be anticipated from inno-  
4 vative measures in the organization, financing  
5 and delivery of hospital services that may be re-  
6 alized as a result of the provision of financial  
7 and management support to the applicant hospital;  
8 and

9 G. The impact of the provision of financial and  
10 management support to the applicant hospital on  
11 its immediate and long-term financial and econom-  
12 ic condition.

13 7. Rulemaking. The department shall establish  
14 rules governing the provision of financial and man-  
15 agement support under this action. The rules shall  
16 be promulgated in accordance with the Maine Adminis-  
17 trative Procedure Act, Title 5, chapter 375, and  
18 shall include, at a minimum, that:

19 A. All applications for financial and management  
20 support shall be deemed complete within 45 days  
21 of filing with the department;

22 B. The department shall enter its decision on  
23 each application no later than 90 days after the  
24 application is declared complete; and

25 C. The department shall hold a public hearing in  
26 accordance with the Maine Administrative Proce-  
27 dure Act, Title 5, chapter 375, during the course  
28 of its review of each application.

29 8. Conditions of participation. Each applicant  
30 hospital shall agree, as a condition precedent to the  
31 receipt of management or financial support under this  
32 section, to enter into a written agreement with the  
33 department requiring the cooperative development and  
34 implementation of long-range plans by the hospital  
35 and the department. These plans may involve, but  
36 shall not be limited to, conditions requiring changes  
37 in services, number of beds, equipment and physical  
38 plan, management and corporate structure.



1           9. Duration. The duration of financial or man-  
2 agement support provided to any one hospital may not  
3 exceed a period of 2 years without further review and  
4 approval by the department. There shall be no limit  
5 to the number of extensions authorized by the depart-  
6 ment. No extension may exceed a period of 2 years.

7           10. Finality of department decision. The deci-  
8 sion of the department shall be final. There shall  
9 be no provision for further administrative or judi-  
10 cial review.

11           11. Sunset. This section is repealed October 1,  
12 1993, and any remaining funds shall be returned to  
13 the hospitals which paid assessments on a prorated  
14 basis.

15       §376. Assessments

16           In order to finance the Health Care Data Informa-  
17 tion Program created under section 373 and the Hospi-  
18 tal Transition Fund established under section 375,  
19 every hospital required to be licensed under chapter  
20 405 shall be subject to an assessment of not more  
21 than .15% of its gross patient service revenues. For  
22 the period October 1, 1987, to September 30, 1988,  
23 the assessment shall be .1% of gross patient service  
24 revenues. The department shall make its first as-  
25 essment on October 1, 1987, which shall be based on  
26 the gross patient service revenues of each hospital  
27 as reported on its audited financial statements for  
28 its most recent fiscal year ending on or before Sep-  
29 tember 30, 1986. Each hospital shall pay this annual  
30 assessment in 2 equal installments, with payments due  
31 on or before November 1, 1987, and April 1, 1988.  
32 Thereafter, the department shall determine the as-  
33 essment annually prior to July 1st based on each  
34 hospital's gross patient service revenues reported in  
35 its audited financial statement for its most recent  
36 fiscal year ending on or before the prior September  
37 30th. Each hospital shall pay this annual assessment  
38 in 2 equal installments, with payments due on or be-  
39 fore November 1st and April 1st of each year.

40           The department shall allocate annually, by rule,  
41 the amounts collected under this section between the  
42 Health Care Data and Information Program and the Hos-

1 pital Transition Fund, provided that not less than  
2 75% of those amounts shall be allocated to the fund.

3 §377. Legislative oversight committee

4 There is established a joint legislative over-  
5 sight committee of the Legislature, which shall ei-  
6 ther be, or report to, the joint standing committee  
7 of the Legislature having jurisdiction over human re-  
8 sources, which shall be charged with reviewing the  
9 impact of this Act on the cost, quality and accessi-  
10 bility of hospital care in the State. The department  
11 shall make such reports as may be required by this  
12 Act, and provide that other data, studies and such  
13 other information as may from time to time be re-  
14 quested by this committee.

15 §378. Transition

16 Notwithstanding any other statutory provision,  
17 the Maine Health Care Finance Commission, as estab-  
18 lished by chapter 107, shall cease, effective October  
19 1, 1987, its regulation of hospital revenues, except  
20 for the purpose of reconciliation, including volume  
21 adjustments, for payment years including partial pay-  
22 ment years beginning prior to October 1, 1987, and  
23 except for the resolution of pending administrative  
24 or judicial appeals. In reconciling all prior pay-  
25 ment years, the commission shall have no authority to  
26 affect hospital revenues from all other payers on or  
27 after October 1, 1987.

28 To the extent that hospital revenue contests for  
29 fiscal years beginning on or after October 1, 1987,  
30 have commenced before the commission, these cases  
31 shall be dismissed. To the extent that administra-  
32 tive proceedings before the commission are pending  
33 with regard to revenue limits for payment years prior  
34 to October 1, 1987, the commission shall resolve  
35 these cases on or before December 31, 1987. To the  
36 extent that any judicial appeals are pending or filed  
37 with respect to revenue limits established by the  
38 commission for payment years prior to October 1,  
39 1987, the commission shall continue in existence for  
40 the sole purpose of resolving these judicial appeals  
41 and reconciliations until October 1, 1988.

1       Sec. 2. 22 MRSA §381, as amended by PL 1985, c.  
2 278, is repealed.

3       Sec. 3. 22 MRSA §382, as amended by PL 1985, c.  
4 418, §21, is repealed.

5       Sec. 4. 22 MRSA §383, as amended by PL 1983, c.  
6 812, §§116 and 117, is repealed.

7       Sec. 5. 22 MRSA §384, as amended by PL 1985, c.  
8 785, Pt. B, §84, is repealed.

9       Sec. 6. 22 MRSA §§385 to 387, as enacted by PL  
10 1983, c. 579, §10, are repealed.

11       Sec. 7. 22 MRSA §388, as amended by PL 1985, c.  
12 778, §§1 and 2, is repealed.

13       Sec. 8. 22 MRSA §§389 and 390, as enacted by PL  
14 1983, c. 579, §10, are repealed.

15       Sec. 9. 22 MRSA §391, sub-§6 is enacted to read:

16       6. Transition. Notwithstanding any other provi-  
17 sion, the assessment under this section for the peri-  
18 od October 1, 1987, to September 30, 1988, shall not  
19 exceed .05% of a hospital's gross patient service  
20 revenue.

21       Sec. 10. 22 MRSA §§391 and 392, as enacted by PL  
22 1983, c. 579, §10, are repealed.

23       Sec. 11. 22 MRSA §§394 and 395, as enacted by PL  
24 1983, c. 579, §10, are repealed.

25       Sec. 12. 22 MRSA §396, sub-§1, as enacted by PL  
26 1983, c. 579, §10, is amended to read:

27       1. Authority. The commission may establish and  
28 approve revenue limits and apportionment methods for  
29 individual hospitals with respect to periods ending  
30 on or before September 30, 1987.

31       Sec. 13. 22 MRSA §§396, 396-A to 396-C, as en-  
32 acted by PL 1983, c. 579, §10, are repealed.

33       Sec. 14. 22 MRSA §396-D, as amended by PL 1985,  
34 c. 661, §9, and c. 778, §4, is repealed.

1           **Sec. 15.** 22 MRSA §396-E, as amended by PL 1985,  
2           c. 339, §§3 and 4, is repealed.

3           **Sec. 16.** 22 MRSA §§396-F and 396-G, as enacted  
4           by 1983, c. 579, §10, are repealed.

5           **Sec. 17.** 22 MRSA §396-H, as enacted by PL 1983,  
6           c. 579, §10, is amended by adding at the end a new  
7           paragraph to read:

8           This section applies only to hospital payment  
9           years ending on or before September 30, 1987, and  
10           with respect to any payment year ending after Septem-  
11           ber 30, 1987, it shall apply only to that portion of  
12           the payment year ending on September 30, 1987.

13           **Sec. 18.** 22 MRSA §396-H, as enacted by PL 1983,  
14           c. 579, §10, is repealed.

15           **Sec. 19.** 22 MRSA §396-I, sub-§6 is enacted to  
16           read:

17           6. Transition. Notwithstanding any other provi-  
18           sion, this section shall apply only to hospital pay-  
19           ment years, or the portion thereof, ending on or be-  
20           fore September 30, 1987.

21           **Sec. 20.** 22 MRSA §396-I, as enacted by PL 1983,  
22           c. 579, §10, is repealed.

23           **Sec. 21.** 22 MRSA §396-J, as enacted by PL 1983,  
24           c. 579, §10, is repealed.

25           **Sec. 22.** 22 MRSA §396-K, as repealed and re-  
26           placed by PL 1985, c. 661, §10, is repealed.

27           **Sec. 23.** 22 MRSA §396-L, as repealed and re-  
28           placed by PL 1985, c. 778, §5, is repealed.

29           **Sec. 24.** 22 MRSA §§396-M to 396-O, as enacted by  
30           PL 1983, c. 579, §10, are repealed.

31           **Sec. 25.** 22 MRSA §396-P, as amended by PL 1985,  
32           c. 778, §6, is repealed.

33           **Sec. 26.** 22 MRSA §397, as amended by PL 1985, c.  
34           109, §1, is repealed.

1       Sec. 27. 22 M RSA §398, sub-§5 is enacted to  
2 read:

3       5. Transition. This section applies only to  
4 hospital payment years, or the portion thereof, end-  
5 ing on or before September 30, 1987.

6       Sec. 28. 22 M RSA §398, as amended by PL 1985, c.  
7 778, §7, is repealed.

8       Sec. 29. 22 M RSA §399, as enacted by PL 1983, c.  
9 579, §10, is repealed.

10       Sec. 30. 22 M RSA §3173, as amended by PL 1985,  
11 c. 785, Pt. B, §91, is further amended by adding at  
12 the end 3 new paragraphs to read:

13       On or before October 1, 1987, the department  
14 shall establish a prospective payment system for in-  
15 patient hospital services allowable under the United  
16 States Social Security Act, Title XIX. For the period  
17 of October 1, 1987, to September 30, 1988, the system  
18 shall be based on a representative case classifica-  
19 tion system, such as diagnosis-related groups  
20 (DRG's). The applicable reimbursement rates during  
21 this period shall be set at such levels as will ensure  
22 that the total authorized Medicaid expenditures  
23 for hospital care shall approximate and not exceed  
24 105% of those payments to hospitals for the period  
25 July 1, 1986, to June 30, 1987, except for an adjust-  
26 ment attributable to increases in the number of  
27 Medicaid beneficiaries or changes in eligibility or  
28 benefit structure. The department shall make adjust-  
29 ments in applicable rates during this period at least  
30 quarterly to ensure that total annual payments will  
31 conform to this requirement. During this period,  
32 hospital outpatient services shall continue to be re-  
33 imbursed based on applicable charges less the depart-  
34 ment's differential of 8.57%.

35       On or before January 1, 1988, the department  
36 shall establish for implementation on October 1,  
37 1988, on behalf of the State, a new prospective pay-  
38 ment methodology or methodologies for reimbursement  
39 of hospital services for beneficiaries under the  
40 Medicaid program administered by the department pur-  
41 suant to the United States Social Security Act, Title

1 XIX. The system shall be designed to better assure  
2 compliance with federal Medicaid law and policy. The  
3 department shall work and consult with payers,  
4 providers and consumers in establishing its new pay-  
5 ment methodology or methodologies.

6 Any legislation deemed necessary by the depart-  
7 ment to enable it to implement this payment  
8 methodology shall also be recommended to the joint  
9 standing committee of the Legislature having juris-  
10 isdiction over human resources on or before January 1,  
11 1988. Within 30 days after implementing any prospec-  
12 tive payment system pursuant to this section or any  
13 substantial change in such a system, the department  
14 shall report to the legislative oversight committee  
15 as to how the system or changes will best effectuate  
16 the policies of this chapter. The department shall  
17 submit periodic reports to the committee on the fis-  
18 cal impact of this section.

19 **Sec. 31. Effective date.** Sections 2, 11 and 21  
20 of this Act shall take effect on October 1, 1987 and  
21 sections 3 to 8, 11, 13 to 16, 18, 20, 26, 28 and 29  
22 of this Act shall take effect on October 1, 1988.

23 STATEMENT OF FACT

24 This bill seeks fundamental changes in the state  
25 regulation of hospitals. The current system is  
26 formula-driven and has proven to be complex, expen-  
27 sive, oppressive and is becoming unworkable. It has  
28 not been effective in preserving or promoting cost,  
29 quality or access to care. Furthermore, the system  
30 is seriously flawed in its inequitable treatment of  
31 hospitals. The current system has not resulted in  
32 significant cost savings and has caused increased  
33 costs of hospital care to the State, potentially  
34 jeopardizing the State's eligibility for continued  
35 federal Medicaid subsidies.

36 This bill would promote the significant state in-  
37 terests in access, quality and costs by encouraging  
38 the development of traditional buyer-seller relation-  
39 ships to create efficient delivery of hospital ser-  
40 vices, while limiting the level of Medicaid costs to  
41 the State.

1 First, the Act would require the Department of  
2 Human Services to reimburse hospital services on a  
3 prospective payment basis, such as has been adopted  
4 by the Federal Government under the Medicare program.  
5 Such a system of prospective payment tends to encour-  
6 age and promote efficiency and lower costs for ser-  
7 vices. The Act would allow the department to control  
8 annual increases in Medicaid expenditures through the  
9 prospective rate-setting process, and would cap the  
10 first year increase at 5%, well below the levels ex-  
11 perenced under the present system.

12 Second, the Act would establish a sophisticated  
13 health care data and information system which would  
14 give those who pay for hospital services the informa-  
15 tion necessary to design alternative programs to make  
16 use of the most efficient and effective providers and  
17 thereby control costs. The Act would promote the de-  
18 velopment of alternative delivery systems under which  
19 payers could enter into agreements with hospitals to  
20 deliver services in a cost effective manner. At the  
21 same time, the Act prohibits discrimination by hospi-  
22 tals in charging different payers greater or lesser  
23 amounts for the same service or services.

24 Third, the Act encourages the maintenance and im-  
25 provement of the accessibility of quality hospital  
26 care in every part of the State. Recognizing that  
27 some hospitals, particularly small community hospi-  
28 tals, may face financial difficulty and that the pub-  
29 lic has a strong interest in preserving the availa-  
30 bility of hospital services in these communities, the  
31 Act establishes a Hospital Transition Fund, to be fi-  
32 nanced solely by assessments on hospitals, which will  
33 be available to assist hospitals in financial diffi-  
34 culty meeting certain criteria.

35 Fourth, the Act provides for continuing legisla-  
36 tive oversight of the impact of these changes on the  
37 cost, quality and accessibility of hospital care in  
38 the State and, specifically, the impact on the cost  
39 of the Medicaid program.

1 Finally, the Act would terminate the authority of  
2 the Maine Health Care Finance Commission under the  
3 revenue limit system as of October 1, 1987, and phase  
4 out the commission by October 1, 1988.

5

0933032387