

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2125

H.P. 1540

House of Representatives, January 5, 1990

Submitted by the Department of Human Services pursuant to Joint Rule 24.
Reference to the Committee on Human Resources suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative DELLERT of Gardiner.

Cosponsored by Senator GILL of Cumberland, Senator GAUVREAU of
Androscoggin and Representative MANNING of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act to Clarify the Laws Regarding Recovery of Medicaid Payments
from Liable Third Parties.**



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

2
3 Sec. 1. 22 MRSA §14, sub-§1, as amended by PL 1981, c. 698,
4 §92, is repealed and the following enacted in its place:

6 1. Recovery procedures. When benefits are provided or will
7 be provided to a beneficiary under the Medicaid program
8 administered by the department pursuant to the United States
9 Social Security Act, Title XIX, for the medical costs of injury,
10 disease, disability or similar occurrence for which a 3rd party
11 is, or may be, liable, the commissioner shall have the right to
12 recover from that party the reasonable value of the benefits
13 provided. The Medicaid program is the payor of last resort and
14 should provide medical coverage only when there are no other
15 available resources. The Attorney General, or counsel for any
16 fiscal intermediary with the permission of the Attorney General,
17 may, to enforce this right, institute and prosecute legal
18 proceedings against the 3rd party or, pursuant to this
19 subsection, against the recipient, in the appropriate court,
20 either in the name of the commissioner or in the name of the
21 injured person, beneficiary, guardian, personal representative,
22 estate or survivor.

24 Whenever a recipient of medical assistance receives any
25 settlement or award from a liable 3rd person or party, the
26 recipient shall repay the amount of medical assistance furnished
27 by the State to the extent that the amount of recovery, after
28 payment of attorney's fees and costs of litigation, makes
29 repayment possible. No attorney's fees may be deducted from the
30 amount due the State from the award or settlement.

32 The commissioner may compromise, or settle and execute a release
33 of, any claim or waive any claim, in whole or in part, if the
34 commissioner determines the collection will not be cost-effective.

36 In any case in which 3rd-party liability is found under this
37 section, the commissioner shall be subrogated to the rights of
38 the individual for whom medical assistance was made available.

40 Sec. 2. 22 MRSA §14, sub-§3, as enacted by PL 1979, c. 610,
41 §2, is amended to read:

42
43 3. Definitions. For purposes of this section, "third 3rd
44 party" means any entity including, but not limited to, an
45 insurance carrier which may be liable under a contract to provide
46 health, automobile, workers' compensation or other insurance
47 coverage that is or may be liable to pay all or part of the
48 medical cost of injury, disease, disability or similar occurrence
49 of an applicant or recipient of Medicaid.
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STATEMENT OF FACT

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The purpose of this bill is to clarify Maine law regarding
6 recovery of Medicaid payments.

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1. This bill establishes Medicaid as the payor of last
resort. If there is a 3rd party, including an insurer, which may
10 be liable for payment of medical payments made by the Medicaid
program, then the Department of Human Services is authorized to
12 seek repayment from that party.

14

2. This bill establishes that a recipient who receives any
settlement or judgment from a 3rd party for payment of medical
16 bills previously paid by the Medicaid program must repay the
Medicaid program. This provision would clarify that the
18 recipient may not settle a case excluding medical payments, thus
forcing the department to sue the 3rd party after settlement.

20

3. This bill changes the compromise and waiver provisions
22 to comply with federal laws and regulations.

24

4. This bill expands the current definition of "3rd party"
to ensure that insurance coverage, whether automobile, health,
26 workers' compensation or other insurance, is considered a
3rd-party resource for purposes of Medicaid recovery.