

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 787

H.P. 550

House of Representatives, February 22, 1991

Submitted by the Maine Health Care Finance Commission pursuant to Joint Rule 24.
Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MANNING of Portland.
Cosponsored by Senator GAUVREAU of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Clarify Certain Provisions of the Hospital Care Financing
System and Provide for Systematic Consideration of Consumer
Viewpoints by the Maine Health Care Finance Commission.**



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

2 **Sec. 1. 5 MRSA §12004-I, sub-§44-A** is enacted to read:

4 **44-A.** Consumer Not 22 MRSA
6 Human Advisory Authorized §396-P
8 Services: Committee
 Hospitals

10 **Sec. 2. 22 MRSA §396-D, sub-§12, ¶B,** as enacted by PL 1989, c.
12 588, Pt. A, §29, is amended to read:

14 B. A request that ~~meets the requirements of paragraph A,~~
16 ~~but that would result in a positive adjustment equal to less~~
18 is not supported by proof of major reasonable increases in
20 expenses, net of offsetting expense changes, that are equal
 to or greater than 1.5% of a hospital's financial
 requirements for the previous year or \$1,000,000, whichever
 is less, shall may not be granted, unless the applicant
 establishes either of the following:

22 (1) That the applicant's failure to receive the
24 adjustment will immediately, seriously and irreparably
26 impair its financial capacity to continue providing
 hospital services and that no alternative means of
 providing those services is available; or

28 (2) That denial of the adjustment would result in a
30 groundless difference in regulatory treatment of
32 similarly situated hospitals seeking relief under this
 subsection on the basis of essentially the same facts.

34 **Sec. 3. 22 MRSA §396-K, sub-§3, ¶F,** as amended by PL 1989, c.
36 588, Pt. A, §39, is further amended to read:

38 F. Debits and carry-overs shall ~~be~~ are determined as
 follows.

40 (1) Except as provided in subparagraph (2), the
42 commission shall debit against the Hospital Development
44 Account the full amount of the incremental annual
46 capital and operating costs associated with each
48 project for which an adjustment is approved under
 paragraph C. Incremental annual capital and operating
 costs shall ~~be~~ are determined in the same manner as
 adjustments to financial requirements are determined
 under section 396-D, subsection 5, for the 3rd fiscal
 year of implementation of the project.

50 (2) In the case of a project which is approved under
52 paragraph C and which involves extraordinary
 incremental annual capital and operating costs, the

2 commission may, in accordance with duly promulgated
4 rules, defer the debiting of a portion of the annual
6 costs associated with the project until a subsequent
8 payment year cycle or cycles.

6 {4} (3) Amounts credited to the Hospital Development
8 Account for which there are no debits ~~shall-be~~ are
10 carried forward to subsequent payment year cycles as a
12 credit.

12 **Sec. 4. 22 MRSA §396-P, sub-§1, ¶D** is enacted to read:

14 D. The commission shall appoint the Consumer Advisory
16 Committee, authorized by Title 5, section 12004-I,
18 subsection 44-A, consisting of 2 representatives of
20 organizations or agencies concerned with the health care
22 needs of the elderly, 2 representatives of employers who
24 purchase hospital care benefits for their employees and 3
26 representatives of organizations representing the interests
of consumers or individual purchasers of hospital care.
This committee shall advise the commission and its staff
concerning the effects of the health care financing system
on consumers of health care services and the views of
consumers concerning the quality, cost and accessibility of
the hospital care that consumers receive.

28 **Sec. 5. 22 MRSA §396-P, sub-§5,** as enacted by PL 1985, c. 778,
§6, is amended to read:

30 **5. Participation in rulemaking.** The ~~chairman~~ chair of
32 each of the 3 4 advisory committees or another committee member
34 designated by the ~~chairman--shall--be~~ chair is entitled to
36 participate, in the manner of an ex officio nonvoting member,
38 solely with respect to deliberations and actions of the
40 commission directly related to the formulation and adoption of
42 rules, but including neither deliberations and actions which are
properly conducted in executive session nor deliberations and
actions with respect to which the commission determines that one
or more of the advisory committee ~~chairmen--has~~ chairs have
a conflict of interest. This section may not be construed to
authorize participation in deliberations and actions of the
commission related to the application or enforcement of rules.

44 **STATEMENT OF FACT**

46 In the course of developing new and revised rules to
48 implement the substantial changes to the hospital care financing
50 system enacted by Public Law 1989, chapter 588, the Maine Health
52 Care Finance Commission has found it valuable to supplement the
advice of the 3 advisory committees now established by law
representing hospitals, payors and professionals with a panel of

2 persons representing consumer interests. This bill adds the
Consumer Advisory Committee to ensure the continued participation
4 of consumer interests in the development of the commission's
policy.

6 This bill clarifies the statutory description of the
monetary threshold for special exception adjustments to hospital
8 financial requirements. The special exception provision, enacted
in 1989, provides an adjustment for major increases in expenses
10 not covered by other health care finance commission adjustments,
when the magnitude of the request exceeds a specified threshold.
12 The law also requires the commission to consider offsetting
savings, the overall reasonableness of a hospital's expenses, a
14 hospital's efficiency and comparative costs and the effect of the
adjustment on patients, purchasers and payors. This bill
16 clarifies that the monetary threshold applies to the major
reasonable expense increases on which the request is based, after
18 offsetting any expense savings but before considering the other
statutory criteria, which require an evaluation of overall
20 hospital operations.

22 The bill also clarifies the statutory description of the
debit made for an approved certificate of need project.
24 Eliminating the word "fiscal" removes any doubt that the approved
costs for the 3rd full year of the project should form the basis
26 for the debit. This change does not require any alteration of
the current practices of either the commission or the Department
28 of Human Services.