

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1614

H.P. 1106

House of Representatives, April 18, 1991

Reported by Representative RYDELL for the Task Force to Evaluate and Revise the Maine Health Program pursuant to Public Law 1991, chapter 9, Part X, section 8.

Reference to the Joint Standing Committee on Appropriations and Financial Affairs suggested and printing ordered under Joint Rule 18.

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

EDWIN H. PERT, Clerk

STATE OF MAINE

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

**An Act to Implement the Initial Recommendations of the Task Force to
Evaluate and Revise the Maine Health Program.**

(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Task Force to Evaluate and Revise the Maine Health Program was charged with reporting to the Joint Standing Committee on Appropriations and Financial Affairs a finding as to whether there are currently sufficient controls, restrictions and requirements to ensure that the Maine Health Program will not expend state funds in excess of its \$6,550,000 supplemental appropriation for the remainder of fiscal year 1990-91; and

Whereas, the task force finds that this legislation is needed immediately to satisfy that charge; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §3189, sub-§2, ¶G is enacted to read:

G. "Work-related expense disregard" means the disregard applied to earned income of applicants or enrollees, and, in determining the eligibility of adults for May 1991 and June 1991, is \$90 per month plus actual dependent care expenses in an amount not to exceed \$200 per month per dependent under 2 years of age receiving dependent care and not to exceed \$175 per month per dependent 2 years of age or older receiving dependent care.

Sec. 2. 22 MRSA §3189, sub-§3, as amended by PL 1989, c. 875, Pt. E, §36, is further amended to read:

3. Eligibility. This subsection sets forth eligibility criteria for the program.

A. Except as provided in subsection 5 and in paragraph B of this subsection, the following persons are eligible to participate in the program and to receive benefits in accordance with this section:

(1) Any person who is under 18 20 years of age and whose household income is 125% or less of the federal poverty level;

(2) Any person who is age 18 20 or older and whose household income is 95% or less of the federal poverty level; and

2 (3) Beginning July 1, 1992, any person who is age 18
4 20 or older and whose household income is 100% or less
of the federal poverty level.

6 B. Notwithstanding paragraph A, the following persons shall
8 are not be eligible to participate in the program:

10 (1) Persons eligible for the full scope of Maine
medical assistance program benefits;

12 (2) Persons who are confined to state correctional
14 facilities, county jails or local or county detention
centers or who reside in institutions operated by the
16 Department of Mental Health and Mental Retardation; and

18 (3) Persons 18 and 19 years of age who may be
considered part of the households of their parents in
accordance with rules adopted by the department; and

20 ~~(3)~~ (4) Persons who fail to meet other criteria
22 established by this section.

24 C. The department shall promulgate rules governing the
26 effective date of eligibility and the application process.
These rules must provide that persons are not eligible for
28 coverage earlier than the first day of the month in which
they apply and no later than the date upon which they
30 apply. The department shall provide for individuals to make
preliminary application for Maine Health Program benefits at
32 the site of a provider and other sites as designated by the
department. The date of this preliminary application is
34 considered the filing date of an application for purposes of
establishing the individual's first day of eligibility, as
long as such preliminary application is received within a
36 reasonable time, as determined by department rules.

38 D. The department shall adopt rules governing conditions of
eligibility that must include the following conditions:

40 (1) The applicant must be a citizen or a lawfully
42 admitted alien;

44 (2) The applicant must cooperate in obtaining medical
46 benefits from a legally responsible parent; and

48 (3) The applicant must furnish the department with a
social security number or provide verification that
50 application for such a number has been made.

2 **Sec. 3. 22 MRSA §3189, sub-§5, ¶A**, as amended by PL 1989, c.
3 875, Pt. E, §37, is further amended to read:

4 A. The department, by rule adopted in accordance with
5 subsection 9, shall determine the scope and amount of
6 medical assistance to be provided to participants in the
7 program provided that the rules meet the following criteria.

8
9 (1) The scope and amount of medical assistance must be
10 the same as the medical assistance received by persons
11 eligible for Medicaid, except that pregnancy-related
12 services and nursing home benefits and case management
13 services covered under Medicaid may not be offered as
14 services under the program and, further, during May
15 1991 and June 1991, coverage under this program for
16 hospital inpatient stays may not exceed the cost of 3
17 consecutive days in general or psychiatric hospitals if
18 the primary diagnosis at the time of admission is a
19 mental disorder, including or diagnosis of alcohol or
20 substance abuse.

21 (2) Notwithstanding the requirements of this
22 paragraph, if the department determines that available
23 funds are inadequate to continue to provide the full
24 scope and amount of medical assistance, the department,
25 in accordance with paragraph G, may restrict the scope
26 and amount of medical assistance to be provided to
27 participants in the program by adoption of rules in
28 accordance with subsection 9.

29 (3) The medical assistance to be provided may not
30 require participants with household income below 100%
31 of the federal poverty level to make out-of-pocket
32 expenditures, such as requiring deductibles or
33 copayments for any service covered, except to the
34 extent out-of-pocket expenditures are required under
35 state Medicaid rules. The department may study, in
36 consultation with the committee, whether to require
37 copayments from participants with household income
38 above 100% of the federal poverty level. Copayments
39 may be required of those persons only to the extent
40 that the study finds that implementation of the
41 proposed copayment will not significantly reduce access
42 to necessary services, and will achieve appropriate
43 reduction in the utilization of services and the cost
44 of the program.

45 **Sec. 4. 22 MRSA §3189, sub-§5, ¶¶B, and C**, as enacted by PL
46 1989, c. 588, Pt. A, §43, are amended to read:

47 B. The department, in consultation with the council, shall
48 develop plans to ensure appropriate utilization of
49

2 services. The department's consideration shall must
3 include, but is not be limited to, preadmission screening,
4 managed care, use of preferred providers and 2nd surgical
5 opinions. In addition, the department may implement
6 surveillance and utilization control review and quality
7 control or management evaluation to the same extent such
8 programs exist in the Medicaid program.

10 C. The department shall adopt rules in accordance with
11 subsection 9, setting forth a sliding scale of premiums to
12 be paid by persons eligible for the program provided that
13 the rules shall meet the following criteria.

14 (1) The premium for a household whose household income
15 does not exceed 100% of the federal poverty level shall
16 be is zero.

18 (2) The premium for a household whose household income
19 exceeds 100% of the federal poverty level shall may not
20 exceed 3% of that household income.

22 The department may, by rule, reduce or waive premiums for
23 persons below the age of 18 20 years whose household income
24 does not exceed 125% of the federal poverty level.

26 **Sec. 5. 22 MRSA §3189, sub-§5, ¶G, as amended by PL 1991, c.**
27 **9, Pt. N, §8 is further amended to read:**

28 G. Notwithstanding subsection 3, if at any time during the
29 fiscal year the department determines that the funds
30 available for the program are inadequate to continue the
31 program pursuant to the requirements of subsection 3, the
32 department, in accordance with this subsection and
33 subsection 9, may take action to limit the program for the
34 full or partial fiscal year for which the department
35 determines funding is inadequate. The priority of making
36 reductions is as follows:

38 (1) With regard to new applicants only, the income
39 limit for persons aged 18 20 or older may be reduced to
40 such lower percentage of federal poverty level as the
41 department determines appropriate;

44 (2) With regard to new applicants only, the income
45 limits for all otherwise eligible persons may be
46 reduced to such lower percentages of the federal
47 poverty level as the department determines appropriate;

48 (3) With regard to all otherwise eligible persons, the
49 department may restrict the scope and amount of medical
50 assistance to be provided;

52

2 (4) With regard to new applicants only, no persons
aged 18 20 or older may be found eligible for the
4 program; and

6 (5) No new applicants may be found eligible for the
program. For the purposes of this paragraph, an
8 individual who has been enrolled in the Maine Health
Program and who is required to recertify eligibility or
10 an individual who has been enrolled in the Maine Health
Program and is for a period of time eligible for
12 Medicaid is not a new applicant to the Maine Health
Program.

14 Sixty days prior to the effective date of any proposed
reduction of benefits or eligibility recommended pursuant to
16 this paragraph, the department shall provide copies of the
proposed rule together with a concise statement of the
18 principal reason for the rule, including the balance
remaining in the account for the program, an analysis of the
20 proposed rule and the savings anticipated by the adoption of
the proposed rule to the Governor and to each member of the
22 joint standing committee of the Legislature having
jurisdiction over insurance matters and appropriations
24 matters.

26 **Sec. 6. 22 MRSA §3189, sub-§6, ¶¶A and D, as enacted by PL**
1989, c. 588, Pt. A, §43, are amended to read:

28 A. If the person is required to contribute toward the cost
of the employer-supported plan, the person shall pay only
30 the amount the person would be required to pay as an
applicable premium to be covered by the program. The
32 department shall promptly pay the remainder of the person's
required contribution to the employer-supported plan to the
34 person, the person's employer or directly to the insurer.
36 If the person's contribution is smaller than the applicable
premium, the person shall--be is required to make the
38 contribution and pay the difference between the contribution
and the applicable premium to the department.

40 D. The department shall adopt rules in accordance with
42 subsection 9 to implement this subsection. The department
may adopt rules reducing or waiving the requirements of this
44 subsection for persons under the age of 18 20 when the
person's parents or other responsible adults are not
46 participants in the program.

48 **Sec. 7. 22 MRSA §3189, sub-§§7 and 8, as enacted by PL 1989, c.**
50 **588, Pt. A, §43, are amended to read:**

2 7. **Coordination of benefits.** Any participant who is
4 covered by a health insurance policy including an
6 employer-supported plan, in addition to coverage under the
8 program, shall file with the department the name, address and
10 group policy number of the ~~employer-supported~~ that policy or
12 plan. The department may request, from the insurer that provides
14 the group policy, information sufficient to permit the department
16 to coordinate benefits between the program and the
18 employer-supported policy or plan. An insurer shall respond to
20 the request from the department within 30 days. The department
may also require the employer or the insurer to provide notice to
the department of any changes in coverage and to provide notice
to the department of any termination of the policy. The program
~~shall be~~ is a secondary payor to all other payors to the extent
permitted by federal and state law.

The department shall adopt rules in accordance with subsection 9
to implement this subsection.

22 8. **Transition period for participants losing eligibility.**
24 Any participant who ceases to be eligible to participate in the
26 program because of household income exceeding the applicable
28 percentage of the federal poverty level ~~shall be~~ is entitled to
30 continue to participate in the program for a period of 2 years
32 following loss of eligibility, provided the participant's income
does not exceed the applicable income eligibility standard by
more than 50% and further provided the participant pays a premium
established for such persons by the department by rule adopted in
accordance with subsection 9. Notwithstanding this subsection,
there is no transitional coverage available for adult
participants in May 1991 or June 1991.

34 **Sec. 8. 22 MRSA §3189, sub-§8-A is enacted to read:**

36 8-A. Income redetermination. In order to redetermine
38 eligibility for persons affected by the provisions of subsection
40 2, paragraph G and subsection 8 the period of eligibility of all
42 adult participants with gross income more than 95% of federal
44 poverty guidelines is terminated effective May 1, 1991. The
46 department shall redetermine the eligibility of those
48 participants based upon the most recent information in the
participant's file and shall notify the participant of the
finding of eligibility or ineligibility, and in the case of a
notice of ineligibility, also provide notice of the participant's
right to request a hearing within 30 days of receipt of the
notice to review the accuracy of such finding. Notification is
presumed to occur within 3 days of mailing. Notwithstanding any
such request for hearing, benefits terminate May 1, 1991 and may
not be reinstated except by administrative decision.

2 **Sec. 9. PL 1991, c. 9, Pt. X, §8, 3rd sentence** is amended to read:

4 The task force shall report additional findings and
6 recommendations, including appropriate authorizing legislation,
to the Governor and the Legislature no later than May June 1,
1991.

8 **Sec. 10. Application.** Notwithstanding the Maine Revised
Statutes, Title 5, chapter 375 or any other applicable law or
10 rule, this Act applies to all persons participating in the Maine
Health Program on the effective date of this Act, without regard
12 to the provision of advance notice. The Department of Human
Services is further authorized to conduct emergency rulemaking in
14 accordance with the provisions of Title 5 in order to implement
rules when the provisions of this Act have superseded prior rules.

16 **Sec. 11. Effective date.** Those parts of sections 2, 4, 5 and
18 6 that change eligibility for persons 18 and 19 years of age take
effect upon notification from the federal Health Care Financing
20 Administration that federal matching funds are available to cover
eligible persons 18 and 19 years of age.

22 **Emergency clause.** In view of the emergency cited in the
24 preamble, this Act takes effect when approved, except as
otherwise provided.

28 **FISCAL NOTE**

30 Enactment of this bill will ensure that program expenditures
do not exceed the amount of funds available in fiscal year
32 1990-91 for the Maine Health Program within the Department of
Human Services.

34 Failure to implement this bill may result in the need for
36 further action by the Legislature.

38 The Department of Human Services can absorb the costs
associated with conducting a minimal number of additional
40 hearings within budgeted resources.

42 **STATEMENT OF FACT**

44 Public Law 1991, chapter 9, Part X created the Task Force
46 to Evaluate and Revise the Maine Health Program. Among its
duties was a requirement to report to the Joint Standing
48 Committee on Appropriations and Financial Affairs as to whether
there were sufficient controls, restrictions and requirements

2 such that Maine Health Program expenditures would not exceed the
3 \$6,550,000 General Fund supplemental appropriation made in
4 section 11 of that Part for fiscal year 1990-91.

5 This bill represents the findings of the task force
6 concerning that supplemental appropriation for fiscal year
7 1990-91. It includes recommendations to:

8
9 1. Prohibit the deduction of certain work-related expenses
10 from participants' income;

11
12 2. Increase the age of eligibility in the "125% or less of
13 the federal poverty level" category to age 20 in order to
14 maximize federal funds;

15
16 3. Clarify conditions of eligibility;

17
18 4. Limit hospital inpatient stays to 3 days for mental
19 disorder diagnoses and alcohol or substance abuse diagnoses;

20
21 5. Authorize the Department of Human Services to implement
22 surveillance and utilization control review and quality control
23 or management evaluation and other techniques utilized in the
24 Medicaid program;

25
26 6. Limit transitional coverage for adult participants in
27 May 1991 or June 1991 if their income exceeds maximum levels;

28
29 7. Allow the department to adopt rules that would treat
30 persons 18 and 19 years of age as part of their parents'
31 household; and

32
33 8. Implement other changes.

34
35 This bill also extends the final reporting deadline for the
36 task force from May 1, 1991 to June 1, 1991.