

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 555

H.P. 436

House of Representatives, February 18, 1993

An Act to Limit Administrative Costs in Contracted Services.

(EMERGENCY)

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GEAN of Alfred.
Cosponsored by Representative: MARTIN of Eagle Lake.

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

Whereas, the State provides funds to community agencies, some of which are not operated efficiently; and

Whereas, scarce resources that should be supporting clients are being used to support inappropriate administrative expenses; and

Whereas, contracts for the next fiscal year take effect on July 1, 1993; 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. 5 MRSA §20005-A is enacted to read:

§20005-A. Limitations on administrative costs of contractors

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agency" means any organization, association, firm, partnership or corporation that delivers a human service, is not an administrative unit of the Federal Government or State Government and is not a health care facility.

B. "Client-related cost" means the cost of direct interaction with a client through personal contact, telephone contact or correspondence; the cost of interaction with other agencies, professionals or family members that is directly related to the welfare of an individual client, including, but not limited to, participation in interdisciplinary team meetings, case management activities and interaction with a client's family members; and the cost of materials, supplies, communication or transportation that is used directly by a client, including, but not limited to, a client's clothing, food, housing, telephone and transportation.

2 C. "Health care facility" means a facility with a primary
4 purpose of delivering health care services, including, but
6 not limited to, a hospital, a psychiatric hospital, a
 nursing facility, a rehabilitation facility, an ambulatory
 surgical facility, a physician's office, a dental clinic and
 a health maintenance organization.

8 D. "Nonclient-related cost" means any cost that is not a
10 client-related cost. "Nonclient-related cost" includes, but
12 is not limited to, staff time and staff travel not related
14 to an individual client; office supplies, telephone and
16 facsimile transmission charges not directly related to
18 clients; conferences; dues and memberships that are not
20 required to perform a direct client service; public
22 relations costs; subscriptions; lobbying activities; legal
 fees that are not directly related to an individual client;
 vehicles that are not used solely to transport clients;
 bonuses, incentive payments and any payment in excess of
 \$50,000 per year made to staff whose prorated client-related
 costs are less than 75% of their salaries; donations; and
 consultants who do not provide clinical advice directly
 related to a client.

24 2. Limitation on nonclient-related costs. When entering
26 into a contract with an agency, the office shall limit the amount
28 of nonclient-related costs reimbursed by the office to the lower
 of:

30 A. Twelve percent of the total contract; or

32 B. If the office had a contract with the agency in fiscal
34 year 1989-90, the percentage allowed by the office for
 nonclient-related costs in that year.

36 Sec. 2. 22 MRSA §12-A is enacted to read:

38 §12-A. Limitations on administrative costs of contractors

40 1. Definitions. As used in this section, unless the
42 context otherwise indicates, the following terms have the
 following meanings.

44 A. "Agency" means any organization, association, firm,
46 partnership or corporation that delivers a human service, is
 not an administrative unit of the Federal Government or
 State Government and is not a health care facility.

48 B. "Client-related cost" means the cost of direct
50 interaction with a client through personal contact,
 telephone contact or correspondence; the cost of interaction

2 with other agencies, professionals or family members that is
3 directly related to the welfare of an individual client,
4 including, but not limited to, participation in
5 interdisciplinary team meetings, case management activities
6 and interaction with a client's family members; and the cost
7 of materials, supplies, communication or transportation that
8 is used directly by a client, including, but not limited to,
9 a client's clothing, food, housing, telephone and
10 transportation.

11
12 C. "Health care facility" means a facility with a primary
13 purpose of delivering health care services, including, but
14 not limited to, a hospital, a psychiatric hospital, a
15 nursing facility, a rehabilitation facility, an ambulatory
16 surgical facility, a physician's office, a dental clinic and
17 a health maintenance organization.

18 D. "Nonclient-related cost" means any cost that is not a
19 client-related cost. "Nonclient-related cost" includes, but
20 is not limited to, staff time and staff travel not related
21 to an individual client; office supplies, telephone and
22 facsimile transmission charges not directly related to
23 clients; conferences; dues and memberships that are not
24 required to perform a direct client service; public
25 relations costs; subscriptions; lobbying activities; legal
26 fees that are not directly related to an individual client;
27 vehicles that are not used solely to transport clients;
28 bonuses, incentive payments and any payment in excess of
29 \$50,000 per year made to staff whose prorated client-related
30 costs are less than 75% of their salaries; donations; and
31 consultants who do not provide clinical advice directly
32 related to a client.

33
34 2. Limitation on nonclient-related costs. When entering
35 into a contract with an agency, the department shall limit the
36 amount of nonclient-related costs reimbursed by the department to
37 the lower of:

38 A. Twelve percent of the total contract; or

39
40 B. If the department had a contract with the agency in
41 fiscal year 1989-90, the percentage allowed by the
42 department for nonclient-related costs in that year.

43
44 Sec. 3. 34-A MRSA §1206-A is enacted to read:

45
46 §1206-A. Limitations on administrative costs of contractors
47
48

2 1. Definitions. As used in this section, unless the
3 context otherwise indicates, the following terms have the
4 following meanings.

5 A. "Agency" means any organization, association, firm,
6 partnership or corporation that delivers a human service, is
7 not an administrative unit of the Federal Government or
8 State Government and is not a health care facility.

9 B. "Client-related cost" means the cost of direct
10 interaction with a client through personal contact,
11 telephone contact or correspondence; the cost of interaction
12 with other agencies, professionals or family members that is
13 directly related to the welfare of an individual client,
14 including, but not limited to, participation in
15 interdisciplinary team meetings, case management activities
16 and interaction with a client's family members; and the cost
17 of materials, supplies, communication or transportation that
18 is used directly by a client, including, but not limited to
19 a client's clothing, food, housing, telephone and
20 transportation.

21 C. "Health care facility" means a facility with a primary
22 purpose of delivering health care services, including, but
23 not limited to, a hospital, a psychiatric hospital, a
24 nursing facility, a rehabilitation facility, an ambulatory
25 surgical facility, a physician's office, a dental clinic and
26 health maintenance organization.

27 D. "Nonclient-related cost" means any cost that is not a
28 client-related cost. "Nonclient-related cost" includes, but
29 is not limited to, staff time and staff travel not related
30 to an individual client; office supplies, telephone and
31 facsimile transmission charges not directly related to
32 clients; conferences; dues and memberships that are not
33 required to perform a direct client service; public
34 relations costs; subscriptions; lobbying activities; legal
35 fees that are not directly related to an individual client;
36 vehicles that are not used solely to transport clients;
37 bonuses, incentive payments and any payment in excess of
38 \$50,000 per year made to staff whose prorated client-related
39 costs are less than 75% of their salaries; donations; and
40 consultants who do not provide clinical advice directly
41 related to a client.

42 2. Limitation on nonclient-related costs. When entering
43 into a contract with an agency, the department shall limit the
44 amount of nonclient-related costs reimbursed by the department to
45 the lower of:

2 A. Twelve percent of the total contract; or

4 B. If the department had a contract with the agency in
6 fiscal year 1989-90, the percentage allowed by the
 department for nonclient-related costs in that year.

8 Sec. 4. 34-B MRSA §1208-A is enacted to read:

10 §1208-A. Limitations on administrative costs of contractors

12 1. Definitions. As used in this section, unless the
14 context otherwise indicates, the following terms have the
 following meanings.

16 A. "Agency" means any organization, association, firm,
18 partnership or corporation that delivers a human service, is
 not an administrative unit of the Federal Government or
 State Government and is not a health care facility.

20 B. "Client-related cost" means the cost of direct
22 interaction with a client through personal contact,
24 telephone contact or correspondence; the cost of interaction
 with other agencies, professionals or family members that is
26 directly related to the welfare of an individual client,
 including, but not limited to, participation in
28 interdisciplinary team meetings, case management activities
 and interaction with a client's family members; and the cost
30 of materials, supplies, communication or transportation that
 is used directly by a client, including, but not limited to,
32 a client's clothing, food, housing, telephone and
 transportation.

34 C. "Health care facility" means a facility with a primary
36 purpose of delivering health care services, including, but
 not limited to, a hospital, a psychiatric hospital, a
38 nursing facility, a rehabilitation facility, an ambulatory
 surgical facility, a physician's office, a dental clinic and
 a health maintenance organization.

40 D. "Nonclient-related cost" means any cost that is not a
42 client-related cost. "Nonclient-related cost" includes, but
 is not limited to, staff time and staff travel not related
44 to an individual client; office supplies, telephone and
 facsimile transmission charges not directly related to
46 clients; conferences; dues and memberships that are not
 required to perform a direct client service; public
48 relations costs; subscriptions; lobbying activities; legal
 fees that are not directly related to an individual client;
50 vehicles that are not used solely to transport clients;

2 bonuses, incentive payments and any payment in excess of
4 \$50,000 per year made to staff whose prorated client-related
6 costs are less than 75% of their salaries; donations; and
8 consultants who do not provide clinical advice directly
10 related to a client.

12 2. Limitation on nonclient-related costs. When entering
14 into a contract with an agency, the department shall limit the
16 amount of nonclient-related costs reimbursed by the department to
18 the lower of:

20 A. Twelve percent of the total contract; or

22 B. If the department had a contract with the agency in
24 fiscal year 1989-90, the percentage allowed by the
26 department for nonclient-related costs in that year.

28 **Sec. 5. Joint rules.** By July 1, 1993, the Department of Human
30 Services, the Department of Mental Health and Mental Retardation,
32 the Department of Corrections and the Office of Substance Abuse
34 shall adopt joint rules to implement this Act. The Commissioner
36 of Human Services shall coordinate the development and adoption
38 of the joint rules.

40 **Sec. 6. Effective date.** Sections 1 to 4 of this Act take effect
July 1, 1993.

Emergency clause. In view of the emergency cited in the
preamble, this Act takes effect when approved.

STATEMENT OF FACT

This bill defines client-related costs and nonclient-related
costs. When the Department of Human Services, the Department of
Mental Health and Mental Retardation, the Department of
Corrections and the Office of Substance Abuse enter into
contracts with community agencies, they must ensure that
nonclient-related costs do not exceed 12% of the contract. The 4
state agencies are required to adopt joint rules to implement
these contract restrictions by July 1, 1993.