

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1732

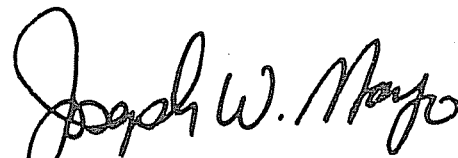
H.P. 1284

House of Representatives, January 18, 1994

An Act to Establish a System of Performance-based Agreements for the Provision of Certain Social Services.

Reported by Representative GEAN for the Administrative Costs Task Force pursuant to Private and Special Law 1993, chapter 48.

Reference to the Joint Standing Committee on Human Resources suggested and printing ordered under Joint Rule 20.


JOSEPH W. MAYO, Clerk

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

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Sec. 1. 5 MRSA §20005-A is enacted to read:

§20005-A. Performance-based contracts

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the director shall manage all funds available for the provision of alcohol or other drug abuse services in accordance with the provisions of this section.

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

A. "Agreement" means a legally binding written document between 2 or more parties, including such documents as are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided.

2. Performance-based contract. The director shall ensure that all agreements to purchase alcohol or other drug abuse services entered into on or after July 1, 1995 are performance-based contracts.

3. Rules. The director shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

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

§12-A. Performance-based contracts

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the commissioner shall manage all funds available for the provision of social services in accordance with the provisions of this section.

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

6 A. "Agreement" means a legally binding written document
7 between 2 or more parties, including such documents as are
8 commonly referred to as accepted application, proposal,
9 prospectus, contract, grant, joint or cooperative agreement,
10 purchase of service or state aid.

12 B. "Performance-based contract" means an agreement for the
13 purchase of direct client services employing a
14 client-centered, outcome-oriented process that is based on
15 measurable performance indicators and desired outcomes and
16 includes the regular assessment of the quality of services
17 provided.

18 2. Performance-based contract. The commissioner shall
19 ensure that all agreements to purchase social services entered
20 into on or after July 1, 1997 are performance-based contracts.

22 3. Rules. The commissioner shall adopt rules to implement
23 this section, including, but not limited to, the establishment of
24 program goals, outcome measures, an information management system
25 to collect and manage contract data, a system of ongoing
26 assessment of program effectiveness and hold-harmless guidelines
27 for provider agencies during the first contract period or 12
28 months, whichever is greater.

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

32 §1206-A. Performance-based contracts

34 In addition to other applicable requirements and unless
35 precluded by other restrictions on the use of funds, the
36 commissioner shall manage all funds available for the provision
37 of human services in accordance with the provisions of this
38 section.

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

44 A. "Agreement" means a legally binding written document
45 between 2 or more parties, including such documents as are
46 commonly referred to as accepted application, proposal,
47 prospectus, contract, grant, joint or cooperative agreement,
48 purchase of service or state aid.

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2 B. "Performance-based contract" means an agreement for the
3 purchase of direct client services employing a
4 client-centered, outcome-oriented process that is based on
5 measurable performance indicators and desired outcomes and
6 includes the regular assessment of the quality of services
7 provided.

8 2. Performance-based contract. The commissioner shall
9 ensure that all agreements to purchase human services entered
10 into on or after July 1, 1997 are performance-based contracts.

11 3. Rules. The commissioner shall adopt rules to implement
12 this section, including, but not limited to, the establishment of
13 program goals, outcome measures, an information management system
14 to collect and manage contract data, a system of ongoing
15 assessment of program effectiveness and hold-harmless guidelines
16 for provider agencies during the first contract period or 12
17 months, whichever is greater.

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

19 §1208-A. Performance-based contracts

20 In addition to other applicable requirements and unless
21 precluded by other restrictions on the use of funds, the
22 commissioner shall manage all funds available for the provision
23 of human services in accordance with the provisions of this
24 section.

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

28 A. "Agreement" means a legally binding written document
29 between 2 or more parties, including such documents as are
30 commonly referred to as accepted application, proposal,
31 prospectus, contract, grant, joint or cooperative agreement,
32 purchase of service or state aid.

33 B. "Performance-based contract" means an agreement for the
34 purchase of direct client services employing a
35 client-centered, outcome-oriented process that is based on
36 measurable performance indicators and desired outcomes and
37 includes the regular assessment of the quality of services
38 provided.

39 2. Performance-based contract. The commissioner shall
40 ensure that any agreement with the board of the regional
41 authority for Region V established pursuant to Public Law 1991,
42 chapter 781, Part C entered into on or after July 1, 1994 is a
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2 performance-based contract. The commissioner shall ensure that
3 all agreements to purchase human services entered into on or
4 after July 1, 1997 are performance-based contracts.

5 3. Rules. The commissioner shall adopt rules to implement
6 this section, including, but not limited to, the establishment of
7 program goals, outcome measures, an information management system
8 to collect and manage contract data, a system of ongoing
9 assessment of program effectiveness and hold-harmless guidelines
10 for provider agencies during the first contract period or 12
11 months, whichever is greater.

12 **Sec. 5. Regional mental health authority board.** The regional
13 mental health authority board for Region V established pursuant
14 to Public Law 1991, chapter 781, Part C shall implement a
15 performance-based system of agreements for the provision of
16 direct client services within the region according to the
17 following schedule.

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19 1. On or after July 1, 1994, the regional mental health
20 authority board for Region V shall enter into an agreement with
21 the Department of Mental Health and Mental Retardation that is
22 performance-based in nature.

23
24 2. The year from July 1, 1994 to June 30, 1995 is a
25 planning and development year to allow for staff training,
26 identification of services to be phased in first and development
27 of desired outcomes and performance indicators.

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29 3. The year from July 1, 1995 to June 30, 1996 is a partial
30 implementation year, requiring performance-based agreements for a
31 significant number of selected categories of services or client
32 populations.

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34 4. On July 1, 1996, the regional mental health authority
35 board for Region V shall begin full implementation of
36 performance-based agreements across all categories of services
37 and client populations.

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39 **Sec. 6. Oversight Committee on Performance-based Contracting.**
40 The Oversight Committee on Performance-based Contracting,
41 referred to in this section as the "committee," is established.

42
43 1. **Membership.** The committee consists of the following 17
44 members:

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46 A. The 13 members of the former Administrative Costs Task
47 Force established pursuant to Private and Special Law 1993,
48 chapter 48 may serve on the committee, including:

2 (1) One member of the Senate and 2 members of the
4 House of Representatives from the Joint Standing
6 Committee on Human Resources, appointed by the
presiding officers of their respective legislative
bodies;

8 (2) One member of the Senate and one member of the
10 House of Representatives from the Joint Standing
12 Committee on Appropriations and Financial Affairs,
appointed by the presiding officers of their respective
legislative bodies;

14 (3) Four members representing private agencies that
16 provide services under contracts with the State, 2
18 appointed by the President of the Senate and 2
appointed by the Speaker of the House of
Representatives; and

20 (4) Four members representing state departments,
22 appointed by the Governor;

24 B. One representative of the Department of Corrections
appointed by the Governor;

26 C. One member of the Joint Select Committee on Corrections
28 appointed jointly by the President of the Senate and the
Speaker of the House of Representatives; and

30 D. Two representatives of the public who are consumers of
32 social services, at least one of whom is a primary consumer,
one appointed by the President of the Senate and one
34 appointed by the Speaker of the House of Representatives.

36 At least one of the legislative members appointed by the
President of the Senate and one of the legislative members
38 appointed by the Speaker of the House of Representatives must be
from the minority party.

40 Any necessary appointments, including any vacancies in the
42 membership of the Administrative Costs Task Force must be filled
by the appropriate appointing authority no later than 30 days
44 following the effective date of this Act. The Executive Director
of the Legislative Council must be notified by all appointing
46 authorities once the selections have been made. The President of
the Senate and the Speaker of the House of Representatives shall
48 jointly appoint the chair of the committee. Members may serve as
long as eligible for the position to which appointed. Vacancies
50 must be filled by the appropriate appointing authority within 30
days.

2 **2. Duties of committee; responsibility of departments.** The
4 committee is responsible for oversight, coordination and
6 evaluation of the implementation of performance-based agreement
8 systems for the provision of direct client services by the state
10 departments provided in this Act, including establishing
12 departmental goals for the provision of social services,
14 identifying appropriate outcome measures for those goals,
16 creating an information management system to track services
18 provided to clients and setting up a system to assess the
20 effectiveness with which the services are provided.

22 The schedule for implementation of performance-based agreement
24 systems for the provision of services must be in accordance with
26 sections 1 to 4 of this Act. In addition, the committee shall
28 apply an intermediate schedule of implementation for the
30 Department of Human Services, Department of Corrections and
32 Department of Mental Health and Mental Retardation, other than
34 services provided through the mental health authority board for
36 Region V, as follows.

38 A. The year from July 1, 1994 to June 30, 1995 is a
40 preplanning year to allow for staff training and a liaison
42 function among the affected departments.

44 B. The year from July 1, 1995 to June 30, 1996 is a
46 development year to identify the services to be phased in
48 first and to develop the desired outcomes and performance
 indicators.

 C. The year from July 1, 1996 to June 30, 1997 is a partial
 implementation year, requiring performance-based agreements
 for a significant number of selected categories of service
 or client groups.

 D. On July 1, 1997, there must be full implementation of
 performance-based agreements across all service categories.

 In carrying out its duties, the committee shall ensure that the
 performance-based systems of agreements for the provision of
 social services developed by the state departments provide for a
 shared responsibility among all affected constituencies,
 including consumers, providers, Legislators and affected state
 agencies, especially in development of goals and outcome
 measures; a technical assistance component to assist the
 departments; a monitoring system, including an information
 management system, to evaluate whether programs are having the
 desired results; sufficient flexibility to meet the agreed-upon
 outcomes; a hold-harmless provision for provider agencies during

2 the first contract period or for 12 months, whichever is greater;
and sufficient time for affected persons and groups to adjust to
4 an outcome-oriented approach.

6 The committee shall complete its work by January 1, 1999. The
committee shall meet as necessary to complete its duties and is
8 authorized to use grants and other funds obtained from private
organizations, the Federal Government and other non-General Fund
10 sources. The committee may request assistance in carrying out
its duties from qualified individuals or organizations inside or
12 outside of State Government. The committee may request staffing
assistance from the Legislative Council.

14 The state departments and the mental health authority board of
Region V shall meet with and report to the committee as
16 determined necessary by the committee to coordinate
implementation of this Act.

18
20 **3. Compensation.** The members of the committee who are
Legislators are entitled to receive their expenses and the
22 legislative per diem, as defined in the Maine Revised Statutes,
Title 3, section 2, for each day's attendance at committee
24 meetings. Other members are reimbursed for their expenses,
except that representatives from state departments receive no
26 reimbursement. Notwithstanding this subsection, a member may
receive compensation for attendance at no more than 6 committee
28 meetings in any fiscal year.

30 **4. Report; legislation.** The committee shall submit a final
report, together with any necessary implementing legislation, to
32 the First Regular Session of the 119th Legislature no later than
December 1, 1998. The report must include an assessment of the
34 effectiveness of the performance-based agreement system and
recommendations on whether it should be continued, including
36 whether its application should be narrowed or broadened to
include other state departments or categories of contracted-for
38 services. During its existence, the committee is authorized to
submit legislation to any regular session of the Legislature.

40 42 STATEMENT OF FACT

44 This bill implements the unanimous recommendations of the
Administrative Costs Task Force established in Private and
46 Special Law 1993, chapter 48. Specifically, this bill requires
the Department of Human Services; the Department of Mental Health
48 and Mental Retardation; the Department of Corrections; the Office
of Substance Abuse within the Executive Department; and the
50 regional mental health authority board for Region V, established

2 pursuant to Public Law 1991, chapter 781 to utilize
performance-based contracts to purchase direct client services.
4 This bill requires a phased-in approach allowing time for
planning, development and partial implementation before a
6 complete conversion to a performance-based system. This bill
also establishes the Oversight Committee on Performance-based
Contracting to monitor the progress of the affected agencies.

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**This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.**