

MAINE STATE LEGISLATURE

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Reds

L.D. 2012

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STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "B" to S.P. 781, L.D. 2012, Bill, "An Act to Continue the Maine Health Program"

Amend the bill by inserting after the title the following:

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

Whereas, funds are needed immediately to continue the Maine Health Program; 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,'

Further amend the bill by inserting after section 2 the following:

'Sec. 3. 22 MRSA §3189, sub-§5, as corrected by RR 1991, c. 2, §79, is repealed.

Sec. 4. 22 MRSA §3189, sub-§5-A is enacted to read:

5-A. Program development and administration. The department shall develop and administer the program with advice from the Advisory Board to Privatize the Maine Health Program and in accordance with this section.

A. The department, by rule adopted in accordance with subsection 9, shall determine the scope and amount of

SENATE AMENDMENT

2 medical assistance to be provided to participants in the
3 program provided that the rules meet the following criteria.

4 (1) The scope and amount of medical assistance must be
5 the same as the medical assistance received by persons
6 eligible for Medicaid, except that pregnancy-related
7 services, nursing home benefits, case management
8 services and day health services covered under Medicaid
9 may not be offered as services under the program. The
10 department may by rule exclude services or extensions
11 of services for adults that are added to state Medicaid
12 to maximize federal revenues for services previously
13 funded with state funds. In addition, coverage under
14 this program for hospital inpatient stays for
15 individuals age 20 and older may not exceed the cost of
16 3 consecutive days in general or psychiatric hospitals
17 if the primary diagnosis at the time of admission is a
18 mental disorder, including a diagnosis of alcohol or
19 substance abuse, until such time as the department
20 adopts an alternative policy as described in divisions
21 (a), (b) and (c), which must occur no later than the
22 end of the 2nd quarter of fiscal year 1991-92.

23 (a) The department shall implement a new policy
24 regarding hospital inpatient stays for mental
25 disorders, including substance abuse, for
26 individuals age 20 and older by no later than the
27 end of the 2nd quarter of fiscal year 1991-92 that
28 is consistent with the following guidelines:

29 (i) For detoxification services, payment for
30 3 days per episode and up to 2 additional
31 days with prior approval with a maximum of 3
32 episodes in any one-year period; and

33 (ii) For rehabilitation services, payment
34 for a maximum of one episode per year with up
35 to 3 days without prior approval and
36 additional days with prior approval up to a
37 maximum total of 17 days, which includes any
38 detoxification days immediately before the
39 rehabilitation days.

40 (b) The department shall implement a new policy
41 regarding inpatient psychiatric care by no later
42 than the end of the 2nd quarter of fiscal year
43 1991-92 that allows up to 3 days per episode with
44 up to 21 additional days allowed with prior
45 approval.

50

2 (c) The department shall adopt rules to implement
4 this paragraph that allow the department to grant
6 prior approval for inpatient psychiatric and
8 substance abuse care only when medically
 necessary, which is limited to those circumstances
 when other treatment has failed, no other
 alternative exists or the patient's medical
 condition requires 24-hour monitoring and care.

10 (2) Notwithstanding the requirements of this
12 paragraph, if the department determines that available
14 funds are inadequate to continue to provide the full
16 scope and amount of medical assistance, the department,
18 in accordance with paragraph G, may restrict the scope
 and amount of medical assistance to be provided to
 participants in the program by adoption of rules in
 accordance with subsection 9.

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

36 B. The department, in consultation with the Advisory Board
38 to Privatize the Maine Health Program, shall develop plans
40 to ensure appropriate utilization of services. The
42 department's consideration must include, but is not limited
44 to, preadmission screening, managed care, use of preferred
46 providers and 2nd surgical opinions. In addition, the
48 department may implement surveillance and utilization
50 control review and quality control or management evaluation
 to the same extent such programs exist in the Medicaid
 program, including the establishment of a Maine Health
 Program formulary. The department may utilize any existing
 Medicaid formulary for these purposes except that the
 department is not bound by federal law in determining what
 to allow or not allow on the formulary.

SENATE AMENDMENT

SENATE AMENDMENT "B" to S.P. 781, L.D. 2012

2 C. Notwithstanding subsection 3, if at any time during the
4 fiscal year the department determines that the funds
6 available for the program are inadequate to continue the
8 program pursuant to the requirements of subsection 3, the
department, in accordance with this subsection and
subsection 9, may take action to limit the program for the
full or partial fiscal year for which the department
determines funding is inadequate.

10 D. The department may initiate emergency rulemaking to
12 further reduce expenditures by reducing eligibility or scope
14 and amount of benefits, or both, as necessary to stay within
16 available appropriations. The department shall give
immediate notice to the committee of the proposed rule and
the factual basis for the proposed rule. The rule may not
take effect for 10 days following notice to the committee.

18 E. The department shall maximize the use of federal funds
20 in order to minimize expenditures under the Maine Health
22 Program. Any person eligible for benefits under Medicaid or
24 the United States Family Support Act of 1988, Public Law
26 100-482 is ineligible to receive those benefits under the
28 program. To maximize the use of federal funds, the
30 department shall take all reasonable and necessary steps to
32 apply for and seek federal Medicaid and other demonstration
34 grants for children and adults, including, but not limited
36 to, the grant programs pursuant to United States Public Law
38 101-508, Sections 4745 and 4747, and explore Medicaid
40 options and less restrictive income and resource
methodologies for medically needy applicants in the Medicaid
program. To the extent that the federal requirements for
any demonstration grant impose upon the department more or
different requirements affecting the program, the department
shall comply with demonstration grant requirements. Any
federal funds received for any demonstration grant or
otherwise to provide health benefits for individuals
previously covered by the Maine Health Program must be used
to supplement and may not supplant state appropriations for
additional enrollment in the Maine Health Program.

42 F. Prior to termination, the department shall review and
44 determine eligibility for the program of any person whose
eligibility for Medicaid or any other medical services
program is being terminated.

46 G. The Department of Human Services shall issue a request
48 for proposals to managed care providers including but not
50 limited to health maintenance organizations, hospital
networks and primary care management organizations to
contract on a capitated basis for health care services to

2 current enrollees of the Maine Health Program. The
3 department shall negotiate a contract or contracts by June
4 30, 1994 or as soon as possible after June 30, 1994.

6 The contract or contracts must cover all or part of the
7 period July 1, 1994 to March 31, 1995 and additional persons
8 may not be enrolled during this period. The department
9 shall transfer all enrollees to managed care providers by
10 September 30, 1994, or as soon as possible after September
11 30, 1994.

12 The department shall seek approval from the federal Health
13 Care Financing Administration for any and all modifications
14 to the adult demonstration project required to carry out
15 this directive. The request for proposals must specify the
16 types and amounts of services to be provided and require an
17 intensive ongoing quality assurance mechanism. If managed
18 care plans are not available in certain areas of the State,
19 enrollees remain in the program administered by the Bureau
20 of Medical Services until managed care becomes available.

22 If a contract or contracts can not be negotiated in
23 accordance with the conditions in this paragraph at or below
24 the department's current estimate of per member, per month
25 costs for fiscal year 1994-95, the Maine Health Program
26 terminates.'

28 Further amend the bill by striking out all of section 7 and
29 inserting in its place the following:

30 **'Sec. 7. Expenses; adult portion of Maine Health Program.**
31 Notwithstanding any other provision of law, the Department of
32 Human Services is authorized to meet the expenses of the adult
33 portion of the Maine Health Program from the Medical Care -
34 Payments to Providers program, Other Special Revenue account for
35 the period of April 1, 1994 to June 30, 1994.

36 **Sec. 8. Retroactivity.** Sections 1 to 6 and section 9 of this
37 Act apply retroactively to April 1, 1994.'

38 Further amend the bill by renumbering the sections to read
39 consecutively.

40 Further amend the bill by inserting before the fiscal note
41 the following:

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

Further amend the bill by striking out all of the fiscal note and inserting in its place the following:

FISCAL NOTE

1994-95

APPROPRIATIONS/ALLOCATIONS

General Fund	\$1,395,940
Other Funds	2,372,797

REVENUES

Other Funds	\$2,372,797
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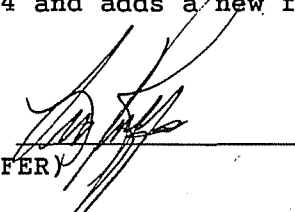
This bill includes a General Fund appropriation of \$1,395,940 and a Federal Expenditure Fund allocation of \$2,372,797 in fiscal year 1994-95 for the Department of Human Services to fund the adult portion of the Maine Health Program from July 1, 1994 to March 31, 1995. It also directs the department to issue requests for proposals to contract for managed care for program participants including a provision that if negotiations are unsuccessful, the program terminates. That provision may result in General Fund and Federal Expenditure Fund savings, since the bill provides funding through March 31, 1995. The exact amount of savings can not be determined.

The bill permits the department to utilize Other Special Revenue funding within the Medical Care - Payments to Providers program to meet these costs.

This estimate does not include the financial implications of any other aspect of retroactivity.'

STATEMENT OF FACT

This amendment directs the Department of Human Services to privatize the Maine Health Program by contracting with managed care providers by June 30, 1994 or as soon as possible thereafter in order to continue the Maine Health Program. The amendment also provides a mechanism to provide for the expenses of the adult portion of the Maine Health Program beginning April 1, 1994 to June 30, 1994 and adds a new fiscal note.

SPONSORED BY: 
(Senator KIEFFER)

COUNTY: Aroostook