## MAINE STATE LEGISLATURE

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## 119th MAINE LEGISLATURE

## **FIRST REGULAR SESSION-1999**

Legislative Document

No. 149

H.P. 118

House of Representatives, January 11, 1999

An Act to Enact a Medicaid Anti-kickback Law.

Reference to the Committee on Health and Human Services suggested and ordered printed.

OSEPH W. MAYO, Clerk

Presented by Representative COWGER of Hallowell.
Cosponsored by Senator TREAT of Kennebec and
Representatives: BRUNO of Raymond, BRYANT of Dixfield, CAMERON of Rumford,
COLWELL of Gardiner, MITCHELL of Vassalboro, RICHARDSON of Brunswick, Senators:
ABROMSON of Cumberland, LONGLEY of Waldo.

	Be it enacted by the People of the State of Maine as follows:
2	Sec. 1. 22 MRSA §3182-A is enacted to read:
4	Page 2
e	\$3182-A. Illegal remuneration
6	1. Soliciting or receiving illegal remuneration. A person
8	is guilty of soliciting or receiving illegal remuneration if that
Ů	person knowingly solicits or receives remuneration in cash or in
10	kind in return for:
12	A. Referring an individual to a person for the furnishing
12	or arranging for the furnishing of any item or service for
14	which payment may be made in whole or in part under this
14	chapter; or
16	
	B. Purchasing, leasing or ordering or arranging for or
18	recommending purchasing, leasing or ordering any good,
	facility, service or item for which payment may be made in
20	whole or in part under this chapter.
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22	2. Paying or offering to pay illegal remuneration. A
<b>.</b> .	person is guilty of paying or offering to pay illegal
24	remuneration if that person knowingly offers to pay remuneration
26	in cash or in kind to induce another person to:
26	) Defen en individual to a namen for the formishing or
28	A. Refer an individual to a person for the furnishing or
20	arranging for the furnishing of any item or service for which payment may be made in whole or in part under this
30	chapter; or
30	chapter; or
32	B. Purchase, lease or order or arrange for or recommend
Ŭ-	purchasing, leasing or ordering any good, facility, service
34	or item for which payment may be made in whole or in part
-	under this chapter.
36	71147 - 7114 - 7
	3. Exceptions. Subsections 1 and 2 do not apply to:
38	** *** *** *** *** * *** * *** * *** *
	A. A discount or other reduction in price obtained by a
40	person if the reduction in price is properly disclosed and
	appropriately reflected in the costs claimed or the charges
42	made by the person under this chapter:
44	B. An amount paid by an employer to a bona fide employee
	for employment in the provision of covered items and
46	services:
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48	C. An amount paid by a vendor of a good or a service to a
	person authorized to act as a purchasing agent for a group
50	of persons who are furnishing services under this chapter if

2	(1) The purchasing agent has a written contract with
	each such person that specifies the amount to be paid
4	the purchasing agent, and if the amount to be paid is a
	fixed amount or a fixed percentage of the value of the
6	purchases made by each person under the contract; and
8	(2) In the case of a person that is a provider of a
	service, the purchasing agent discloses to the person,
10	and upon the department's request, to the department
	the amount received from each such vendor with respect
12	to the purchases made by or on behalf of the person; or
14	D. A payment practice specified by rule by the department.
	Such rules are routine technical rules as defined in Title
16	5, chapter 375, subchapter II-A.
18	4. Penalty. Soliciting or receiving illegal remuneration
	is a Class C crime. Paying or offering to pay illegal
20	remuneration is a Class C crime.
22	
	SUMMARY
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	This bill proposes to add an anti-kickback law to state
26	Medicaid law. The bill is similar to the federal Medicare
20	anti-kickback law. This bill would make it a Class C crime for a
28	person to offer, pay, solicit or receive remuneration of any kind in return for practices such as referring an individual for
30	services or purchasing goods and services paid for by Medicaid.
30	services or purchasing goods and services para for by medicata.

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