

# MAINE STATE LEGISLATURE

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MAJORITY  
BANKING AND INSURANCE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 216, L.D. 251, Bill, "An Act to Clarify the Application of the Definitions of "Medical Necessity" and "Medically Appropriate Health Care""

Amend the bill by striking out the title and substituting the following:

**'An Act to Define "Medically Necessary Health Care" and Clarify its Application by Health Plans and Managed Care Plans'**

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

**Sec. 1. 24-A MRSA §4301-A, sub-§6**, as enacted by PL 1999, c. 742, §3, is amended to read:

**6. Health care treatment decision.** "Health care treatment decision" means a decision regarding diagnosis, care or treatment when medical services are provided by a health plan, or a benefits decision involving ~~issues of medical necessity~~ determinations regarding medically necessary health care, preexisting condition determinations and determinations regarding experimental or investigational services.

**Sec. 2. 24-A MRSA §4301-A, sub-§10**, as enacted by PL 1999, c. 742, §3, is repealed.

**Sec. 3. 24-A MRSA §4301-A, sub-§10-A** is enacted to read:

2 10-A. Medically necessary health care. "Medically necessary  
3 health care" means health care services or products provided to  
4 an enrollee for the purpose of preventing, diagnosing or treating  
5 an illness, injury or disease or the symptoms of an illness,  
6 injury or disease in a manner that is:

7 A. Consistent with generally accepted standards of medical  
8 practice;

10 B. Clinically appropriate in terms of type, frequency,  
11 extent, site and duration;

12 C. Demonstrated through scientific evidence to be effective  
14 in improving health outcomes;

16 D. Representative of "best practices" in the medical  
17 profession; and

18 E. Not primarily for the convenience of the enrollee or  
20 physician or other health care practitioner.

22 **Sec. 4. 24-A MRSA §4301-A, sub-§11,** as enacted by PL 1999, c.  
24 742, §3, is repealed.

26 **Sec. 5. 24-A MRSA §4303, sub-§3-B,** as enacted by PL 1999, c.  
27 742, §7, is amended to read:

28 **3-B. Prohibition on financial incentives.** A carrier  
29 offering a managed care plan may not offer or pay any type of  
30 material inducement, bonus or other financial incentive to a  
31 participating provider to deny, reduce, withhold, limit or delay  
32 specific medically necessary and-appropriate health care services  
33 covered under the plan to an enrollee. This subsection may not  
34 be construed to prohibit contracts that contain incentive plans  
35 that involve general payments such as capitation payments or  
36 risk-sharing agreements that are made with respect to providers  
37 or groups of providers or that are made with respect to groups of  
38 enrollees.

40 **Sec. 6. 24-A MRSA §4304, sub-§1,** as enacted by PL 1995, c.  
41 673, Pt. C, §1 and affected by §2, is amended to read:

44 **1. Requirements for medical review or utilization review**  
45 **practices.** A carrier must appoint a medical director who is  
46 responsible for reviewing and approving the carrier's policies  
47 governing the clinical aspects of coverage determinations by any  
48 health plan that it offers. A carrier's medical review or  
49 utilization review practices must be governed by the standard of  
50 medically necessary health care as defined in this chapter.'

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**SUMMARY**

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6 This amendment is the majority report of the committee and  
8 replaces the bill. The amendment repeals the definitions of  
10 "medical necessity" and "medically appropriate health care" and  
12 replaces them with a definition of "medically necessary health  
care." The amendment clarifies that "medically necessary health  
care" is used to govern review of medical issues in utilization  
review at all stages of review, including internal and external  
appeals and civil action.