

MAINE STATE LEGISLATURE

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L.D. 1545

DATE: April 1, 2002

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HEALTH AND HUMAN SERVICES

Reported by:

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 481, L.D. 1545, Bill, "An Act to Increase the Supply of Medical Services to Consumers"

Amend the bill by inserting after section 3 the following:

'Sec. 4. 22 MRSA §1708, sub-§3, ¶¶B and C, as amended by PL 1995, c. 696, Pt. A, §32, are further amended to read:

B. Are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities; and

C. Are consistent with federal requirements relative to limits on reimbursement under the federal Social Security Act, Title XIX;_

Sec. 5. 22 MRSA §1708, sub-§3, ¶D, as enacted by PL 1995, c. 696, Pt. A, §33, is repealed.'

Further amend the bill by inserting after section 4 the following:

'Sec. 5. 22 MRSA §1715, sub-§1, as amended by PL 1995, c. 653, Pt. B, §5 and c. 696, Pt. A, §34 and affected by c. 653, Pt. B, §8, is further amended to read:

1. Access requirements. Any person, --including, --but--not limited-to--an-affiliated-interest-as-defined-in-section-396-L, that is subject to the requirements of this subsection, shall provide the services listed in paragraph C to individuals who are eligible for charity care in accordance with a charity care policy adopted by the affiliate or provider that is consistent with rules applicable to hospitals under section 1716. A person is subject to this subsection if that person:

2 A. ~~Is either a direct provider of major ambulatory service,~~
3 ~~as defined in section 382, subsection 8-A, or is or has been~~
4 ~~required to obtain a certificate of need under the former~~
5 ~~section 304 or 304-A. For purposes of this paragraph,~~
6 "major ambulatory service" means surgical procedures,
7 chiropractic methodologies or medical procedures, including
8 diagnostic procedures and therapeutic radiological
9 procedures, that require special facilities such as
10 operating rooms or suites, special equipment such as
11 fluoroscopic equipment or computed tomographic scanners or
12 special rooms such as post-procedure recovery rooms or
13 short-term convalescent rooms;

14 B. Provides outpatient services ~~as defined in section 382,~~
15 ~~subsection 9-A. For purposes of this paragraph, "outpatient~~
16 services" means all therapeutic or diagnostic health care
17 services rendered to a person who has not been admitted to a
18 hospital as an inpatient; and

19 C. Provides one or more of the following services:

20 (1) Imaging services, including, but not limited to,
21 magnetic resonance imaging, computerized tomography,
22 mammography and radiology. For purposes of this
23 section, imaging services do not include:

24 (a) Screening procedures that are not related to
25 the diagnosis or treatment of a specific
26 condition; or

27 (b) Services when:

28 (i) The services are owned by a community
29 health center, a physician or group of
30 physicians;

31 (ii) The services are offered solely to the
32 patients of that center, physician or group
33 of physicians; and

34 (iii) Referrals for the purpose of
35 performing those services are not accepted
36 from other physicians;

37 (2) Laboratory services performed by a hospital or by
38 a medical laboratory licensed in accordance with the
39 Maine Medical Laboratory Commission, or licensed by an
40 equivalent out-of-state licensing authority, excluding
41 those licensed laboratories owned by community health
42

2 centers, a physician or group of physicians where the
laboratory services are offered solely to the patients
of that center, physician or group of physicians;

4
6 (3) Cardiac diagnostic services, including, but not
limited to, cardiac catheterization and angiography but
excluding electrocardiograms and electrocardiograph
8 stress testing;

10 (4) Lithotripsy services;

12 (5) Services provided by free-standing ambulatory
surgery facilities certified to participate in the
14 Medicare program; or

16 (6) Any other service performed in an out-patient
setting requiring the purchase of medical equipment
18 costing in the aggregate \$500,000 or more and for which
the charge per unit of service is \$250 or more.'

20
22 Further amend the bill by inserting after section 8 the
following:

24 'Sec. 9. 22 MRSA §5118, sub-§4, ¶C, as enacted by PL 1981, c.
470, Pt. A, §117, is amended to read:

26
28 C. In the administration of the plan, there is a failure to
comply substantially with any such provision of subsection
30 1, paragraphs A to I, the director shall notify the area
agency that no further payments from its allotments under
32 ~~sections 306 and section~~ section 5115 will be made to the agency or,
in ~~his~~ the director's discretion, that further payments to
34 the agency will be limited to projects under or portions of
the area plan not affected by the failure, until ~~he~~ the
director is satisfied that there will no longer be any
36 failure to comply. Until ~~he~~ the director is so satisfied, no
further payments may be made to the agency from its
38 allotments under section 5115, or payments may be limited to
projects under or portions of the area plan not affected by
40 the failure. The director shall, in accordance with
regulations ~~he--shall--prescribe~~ the director prescribes,
42 disburse funds so withheld directly to any public or
nonprofit private organization or agency of the area,
44 submitting an approved plan in accordance with section 5116.
Any payment or payments shall must be matched in the
46 proportions specified in section 5116.

48 Sec. 10. 24-A MRSA §4225, as amended by PL 1975, c. 293, §4
and enacted by c. 503, is further amended to read:

2 **§4225. Commissioner of Human Services' authority to contract**

4 The Commissioner of Human Services, in carrying out his the
6 commissioner's obligations under sections 4204, ~~subsection 1,~~
8 ~~paragraph B,~~ 4215 and 4216, subsection 1, may contract with
10 qualified persons to make recommendations concerning the
determinations required to be made by him the commissioner. Such
recommendations may be accepted in full or in part by the
Commissioner of Human Services.'

12 Further amend the bill by inserting after section 11 the
14 following:

16 'Sec. 12. 24-A MRSA §6203, sub-§6, as amended by PL 1997, c.
478, §1, is further amended to read:

18 **6. Provision of services to nonresidents.** The final
20 certificate of authority must state whether any skilled nursing
22 facility that is part of a life-care community or a continuing
24 care retirement community may provide services to persons who
26 have not been bona fide residents of the community prior to
admission to the skilled nursing facility. If the life-care
28 community or the continuing care retirement community admits to
its skilled nursing facility only persons who have been bona fide
30 residents of the community prior to admission to the skilled
nursing facility, then the community is ~~exempt from the~~
32 ~~provisions of Title 22, chapter 103, but is~~ subject to the
licensing provisions of Title 22, chapter 405, and is entitled to
only one skilled nursing facility bed for every 4 residential
34 units in the community. ~~Any community exempted under Title 22,~~
~~chapter 103 may admit nonresidents of the community to its~~
~~skilled nursing facility only during the first 3 years of~~
operation. For purposes of this subsection, a "bona fide
36 resident" means a person who has been a resident of the community
38 for a period of not less than 180 consecutive days immediately
preceding admission to the nursing facility or has been a
40 resident of the community for less than 180 consecutive days but
who has been medically admitted to the nursing facility resulting
42 from an illness or accident that occurred subsequent to residence
in the community. ~~Any community exempted under Title 22, chapter~~
~~103 is not entitled to and may not seek any reimbursement or~~
44 ~~financial assistance under the Medicaid program from any state or~~
~~federal agency and, as a consequence, that community must~~
46 ~~continue to provide nursing facility services to any person who~~
~~has been admitted to the facility.'~~

48 Further amend the bill by striking out all of section 13
50 (page 9, lines 15 to 21 in L.D.) and inserting in its place the
following:

'Sec. 13. Appropriations and allocations. The following appropriations and allocations are made.

HUMAN SERVICES, DEPARTMENT OF

Bureau of Medical Services

Initiative: Effective October 1, 2002, reduction in staffing and funding as a result of eliminating the certificate of need.

General Fund	2001-02	2002-03
Positions - Legislative Count	(0.000)	(-2.000)
Personal Services	\$0	(\$88,283)
All Other	0	(5,000)
Total	\$0	(\$93,283)

Nursing Facility 0147

Initiative: Provides increased Medicaid nursing home funding as a result of eliminating the certificate of need.

General Fund	2001-02	2002-03
All Other	\$0	\$685,883
Federal Expenditures Fund	2001-02	2002-03
All Other	\$0	\$1,533,587

**HUMAN SERVICES, DEPARTMENT OF
DEPARTMENT TOTALS**

	2001-02	2002-03
GENERAL FUND	\$0	\$685,883
FEDERAL EXPENDITURES FUND	\$0	\$1,533,587
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$2,219,470'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the summary the following:

'FISCAL NOTE

2002-03

APPROPRIATIONS/ALLOCATIONS

2	General Fund	685,88
	Other Funds	1,533,58

4

REVENUES

6

8	Other Funds	1,441,920
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10 The bill as amended would repeal the Maine Certificate of
 11 Need (CON) Act of 1978. The repeal of the Act would eliminate
 12 the need for at least 2 positions in the Department of Human
 13 Services, Bureau of Medical Services administering the program,
 14 eliminate the collection of CON application fees, and would
 15 increase costs to the Medicaid nursing home program. The repeal
 16 of the Act could also have an impact on private sector health
 17 care spending. This impact can not be estimated at the present
 18 time and is not included in this fiscal note.

20 By eliminating certificate of need requirements, the bill
 21 would reduce staffing needs in the Bureau of Medical Services.
 22 The fiscal note assumes 2 Health Care Financial Analyst positions
 23 in the bureau would be eliminated effective October 2002
 24 resulting in a net General Fund savings of \$93,283 in fiscal year
 2002-03.

26 Eliminating the Maine Certificate of Need Act of 1978 would
 27 also eliminate the collection of certificate of need application
 28 fees resulting in a loss of Other Special Revenue funds revenue
 of \$91,667 in fiscal year 2002-03.

30 Eliminating the Maine Certificate of Need Act of 1978 is
 31 estimated to increase Medicaid nursing home costs. The Nursing
 32 Facility account in the Department of Human Services will require
 33 a General Fund appropriation of \$779,167 in fiscal year 2002-03
 34 for increased costs resulting from an estimated 100 additional
 35 nursing home beds coming on line. The current CON law requires
 36 that nursing home beds require CON approval and that the addition
 37 of beds not increase Medicaid costs.

40 The Nursing Facility account will also require a Federal
 41 Expenditures Fund allocation of \$1,533,587 in fiscal year 2002-03
 42 for increased Medicaid costs.'

44 **SUMMARY**

46 This amendment includes changes to the law necessitated by
 47 the repeal of the Maine Revised Statutes, Title 22, chapter 103.
 48 In amending Title 22, section 1715, the amendment incorporates
 definitions of "major ambulatory service" and "outpatient
 50 services" as they previously existed in Title 22, section 382 in

COMMITTEE AMENDMENT "A" to S.P. 481, L.D. 1545

2 the law governing access requirements. This amendment also adds
an appropriations and allocations section and a fiscal note to
the bill.

COMMITTEE AMENDMENT