

MAINE STATE LEGISLATURE

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H. 618

L.D. 159

DATE:

1-28-04

(Filing No. S-363)

HEALTH AND HUMAN SERVICES

Reported by:

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STATE OF MAINE SENATE 121ST LEGISLATURE SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 82, L.D. 159, Bill, "An Act To Refine the Criteria for Issuing a Certificate of Need"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

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

Whereas, health care projects with applications for certificates of need currently pending with the Department of Human Services that are appropriate for action by the department at this time require action promptly in order to provide needed health care service improvements for residents of this State; 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,

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

Sec. 1. 22 MRSA §335, sub-§7, as amended by PL 2003, 469, Pt. C. §§11 and 12, is further amended to read:

7. Review; approval. Except as provided in section 336, the commissioner shall issue a certificate of need if the commissioner determines and makes specific written findings regarding that determination that:

COMMITTEE AMENDMENT

2 A. The applicant is fit, willing and able to provide the
4 proposed services at the proper standard of care as
6 demonstrated by, among other factors, whether the quality
of any health care provided in the past by the applicant or
a related party under the applicant's control meets industry
standards;

8 B. The economic feasibility of the proposed services is
10 demonstrated in terms of the:

12 (1) Capacity of the applicant to support the project
financially over its useful life, in light of the rates
14 the applicant expects to be able to charge for the
services to be provided by the project; and

16 (2) Applicant's ability to establish and operate the
18 project in accordance with existing and reasonably
anticipated future changes in federal, state and local
20 licensure and other applicable or potentially
applicable rules;

22 C. There is a public need for the proposed services as
24 demonstrated by certain factors, including, but not limited
to:

26 (1) Whether, and the extent to which, the project will
28 substantially address specific health problems as
measured by health needs in the area to be served by
30 the project;

32 (2) Whether the project will have a positive impact on
the health status indicators of the population to be
34 served;

36 (3) Whether the services affected by the project will
be accessible to all residents of the area proposed to
38 be served; and

40 (4) Whether the project will provide demonstrable
improvements in quality and outcome measures applicable
42 to the services proposed in the project;

44 D. The proposed services are consistent with the orderly
and economic development of health facilities and health
46 resources for the State as demonstrated by:

48 (1) The impact of the project on total health care
expenditures after taking into account, to the extent
50 practical, both the costs and benefits of the project

COMMITTEE AMENDMENT "A" to S.P. 82, L.D. 159

and the competing demands in the local service area and statewide for available resources for health care;

(2) The availability of state funds to cover any increase in state costs associated with utilization of the project's services; and

(3) The likelihood that more effective, more accessible or less costly alternative technologies or methods of service delivery may become available; and

E. The project meets the criteria set forth in subsection 1.

In making a determination under this subsection, the commissioner shall use data available in the state health plan under Title 2, section 103, data from the Maine Health Data Organization established in chapter 1683 and other information available to the commissioner. Particular weight must be given to information that indicates that the proposed health services are innovations in high quality health care delivery, that the proposed health services are not reasonably available in the proposed area and that the facility proposing the new health services is designed to provide excellent quality health care.

Sec. 2. Nursing facility projects. Notwithstanding the provisions of the Maine Revised Statutes, Title 22, section 334, the Department of Human Services may approve a nursing facility project if the applicant has been recommended for conditional approval from the department prior to February 15, 2004, complies with all other applicable state rules and federal regulations and demonstrates cost-neutrality using savings obtained from the purchase of beds from the Maine Health and Higher Education Facilities Authority and approved by the department.

Sec. 3. Report on nursing facility projects. By February 15, 2004, the Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding funding requirements under the Maine Revised Statutes, Title 22, section 334 for nursing facility projects that use banked beds from nursing facilities and residential care facilities. The joint standing committee of the Legislature having jurisdiction over health and human services matters is authorized to report out legislation regarding this issue to the First Regular Session of the 122nd Legislature.

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

5363

COMMITTEE AMENDMENT "A" to S.P. 82, L.D. 159

SUMMARY

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4 This amendment retains the provisions of the bill that
6 require applications for certificates of need be judged in
8 reference to the state health plan, data from the Maine Health
10 Data Organization and other information available to the
12 Commissioner of Human Services. It also retains the provisions
14 that require that particular weight be given to information that
16 the proposed health care services are innovations in high quality
18 health care delivery and that the facility proposing the new
20 health services is designed to provide excellent quality health
22 care. It updates the bill language to reflect amendments to the
24 certificate of need law enacted in 2003. It adds language
permitting the Department of Human Services to approve a nursing
facility project if the project has been recommended for
conditional approval prior to February 15, 2004, the project
complies with other state rules and federal regulations and the
project demonstrates cost-neutrality using savings obtained from
the purchase of beds from the Maine Health and Higher Education
Facilities Authority and approved by the Department of Human
Services. The amendment directs the Department of Human Services
to report to the Joint Standing Committee on Health and Human
Services regarding funding nursing facility projects under the
Maine Revised Statutes, Title 22, section 334. The amendment
adds an emergency preamble and an emergency clause.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



**121st Maine Legislature
Office of Fiscal and Program Review**

LD 159

An Act To Refine the Criteria for Issuing a Certificate of Need

LR 0591(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Any additional cost to the Department of Human Services can be absorbed by the Department within existing budgeted resources. Any additional cost the Maine Health Data Organization in implementing this legislation can be absorbed by the agency utilizing existing resources.