

# MAINE STATE LEGISLATURE

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DATE: 3.18.04

(Filing No. S- 433

HEALTH AND HUMAN SERVICES

Reported by:

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 627, L.D. 1695, Bill, "An Act To Ensure Compliance with Federal Medicaid Requirements"

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

Sec. 1. 22 MRSA §13, sub-§6, as enacted by PL 2003, c. 419, §1, is amended to read:

6. Limitation on actions to recover overpayments. The department may impose a sanction or withhold payment from a MaineCare provider in order to recover or impose penalties for an overpayment for services rendered or goods delivered under the MaineCare program as provided in this subsection.

A. The department may impose a sanction or withhold payment when the department has obtained an order from Superior Court allowing interim sanctions upon showing a substantial likelihood that overpayment is and fraud has occurred or that substantial harm to the department will result from further delay or when the department has taken final agency action and the provider has waived or exhausted its right to judicial review.

B. Notwithstanding paragraph A, the department may terminate or suspend the participation of a provider in the MaineCare program in lieu of recoupment pending final determination regarding an overpayment as long as 30 days' notice is given pursuant to federal regulation and state rule.

C. For the purposes of this subsection, "overpayment" does not include an overestimate made as part of a prospective interim payment, a 3rd-party liability recovery, a departmental administrative error or receivership fees or debt. In addition, this subsection does not apply to routine adjustments of \$2,500 or less that result from claims editing or processing.

Sec. 2. 22 MRSA §42, sub-§7, ¶H, as enacted by PL 2003, c. 419, §2, is amended to read:

H. In an administrative appeal of an informal review decision under this subsection, the department bears the burden of proving a violation of law or rule by a preponderance of the evidence. If the department proves that existing and available records of goods or services are defective, the department may impose ~~the~~ a fee or sanction of, including total recoupment. Total recoupment for defective records is warranted only when the provider has failed to demonstrate by a preponderance of the evidence that the disputed goods or services were medically necessary, MaineCare-covered goods or services and were actually provided to eligible MaineCare members.

**SUMMARY**

This amendment replaces the bill. The amendment retains the provision of the bill defining "overpayment" and adds an exclusion for certain routine adjustments of \$2,500 or less. The amendment retains the provision on administrative appeals of informal reviews. The amendment clarifies the use of existing and available records, limits the application of total recoupment and limits proof that services or goods were actually provided to situations in which the provider has proven by a preponderance of the evidence that the goods or services were medically necessary, MaineCare-covered goods or services. The amendment corrects an error in current law that pertains to the Department of Human Services' terminating or suspending the participation of a provider in the MaineCare program.

FISCAL NOTE REQUIRED  
(See attached)

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

**LD 1695**

**An Act To Ensure Compliance with Federal Medicaid Requirements**



**LR 2641(02)**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: Health and Human Services**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Minor cost increase - General Fund

Minor savings - General Fund