

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1448

H.P. 1012

House of Representatives, March 22, 2005

An Act To Stabilize and Strengthen the MaineCare Program

(EMERGENCY)

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PINGREE of North Haven.
Cosponsored by Senator MAYO of Sagadahoc and
Representatives: BRAUTIGAM of Falmouth, CRAVEN of Lewiston, DUDLEY of Portland,
FAIRCLOTH of Bangor, MILLER of Somerville, WALCOTT of Lewiston, WEBSTER of
Freeport.

2 before October 15, 2005. Stamps indicating payment of the tax
3 imposed by this section must be affixed to all packages of
4 cigarettes held for resale as of October 15, 2005, except that
5 cigarettes held in vending machines as of that date do not
6 require that stamp.

7
8 3. Vending machines. Notwithstanding any other provision
9 of this chapter, it is presumed that all cigarette vending
10 machines are filled to capacity on October 15, 2005 and that the
11 tax imposed by this section must be reported on that basis. A
12 credit against this inventory tax must be allowed for cigarettes
13 stamped at the rate of 97 mills per cigarette placed in vending
14 machines before October 15, 2005.

15
16 4. Payment. Payment of the tax imposed by this section
17 must be made to the State Tax Assessor by January 1, 2006,
18 accompanied by forms prescribed by the assessor.

19
20 **Sec. A-4. 36 MRSA §4366-A, sub-§2, ¶¶B and C, as enacted by PL**
21 **2001, c. 439, Pt. SSSS, §3, are amended to read:**

22 B. For stamps at the face value of 47 mills sold prior to
23 July 1, 2002, 2.16%; and

24
25 C. For stamps at the face value of 47 mills sold on or
26 after July 1, 2002, 2.03%.

27
28 **Sec. A-5. 36 MRSA §4366-A, sub-§2, ¶¶D and E are enacted to**
29 **read:**

30
31 D. For stamps at the face value of 97 mills sold prior to
32 July 1, 2005, 1.62%; and

33
34 E. For stamps at the face value of 97 mills sold on or
35 after October 15, 2005, 1.52%.

36
37 **Sec. A-6. 36 MRSA §4366-D, as enacted by PL 2001, c. 450,**
38 **Pt. D, §1, is repealed.**

39
40 **Sec. A-7. Effective date. This Part takes effect October 15,**
41 **2005.**

42
43
44 **PART B**

45
46 **Sec. B-1. 22 MRSA §3174-GG is enacted to read:**

47
48 **§3174-GG. MaineCare Stabilization Fund**

1 1. Fund established. The MaineCare Stabilization Fund,
2 referred to in this chapter as "the fund," is established as an
3 Other Special Revenue fund for the purposes specified in this
4 chapter.

6 2. Sources of fund. The State Controller shall credit to
7 the fund:

8 A. Revenues attributable to 50 mills for each cigarette
9 taxed pursuant to Title 36, section 4365-F;

10 B. Revenues received by the State from financial
11 settlements or judgments entered into or ordered beginning
12 October 15, 2005 on lawsuits related to the MaineCare
13 program or the elderly low-cost drug program under section
14 254 to the extent possible under the terms of the settlement
15 or judgment;

16 C. Revenues collected as a result of procedures adopted by
17 the department on October 15, 2005 to ensure the collection
18 of the full value of rebates owed to the department on
19 injectable prescription drugs that are provided in the
20 office of a physician or in another health care facility and
21 that are paid for by the MaineCare or elderly low-cost drug
22 program;

23 D. Funds distributed to the State under Title XXI of the
24 United States Social Security Act as unexpended federal
25 State Children's Health Insurance Program funds;

26 E. Amounts recovered from or saved as a result of payment
27 by the United States Veterans' Administration under section
28 3174-HH, subsection 2;

29 F. Money from any other source, whether public or private,
30 designated for deposit into or credited to the fund; and

31 G. Interest earned or other investment income on balances
32 in the fund.

33 3. Nonlapsing. Any unexpended balances in the fund may not
34 lapse but must be carried forward.

35 4. Fund purposes. Allocations from the fund must prevent
36 any loss of services or increased cost of services to a MaineCare
37 member or a person receiving benefits under the elderly low-cost
38 drug program under section 254 that would otherwise result from
39 insufficient General Fund appropriations, insufficient federal
40 matching funds or any other shortage of funds, changes in federal
41 or state law, rule or policy or the implementation of the federal

2 Medicare Prescription Drug, Improvement, and Modernization Act
3 of 2003.

4 5. Report by Treasurer of State. The Treasurer of State
5 shall report at least annually on the fund on or before the 2nd
6 Friday in November to the joint standing committee of the
7 Legislature having jurisdiction over appropriations and financial
8 affairs and the joint standing committee of the Legislature
9 having jurisdiction over health and human services matters. The
10 report must summarize the status of and activity in the fund.

11 **Sec. B-2. Rebates on injectable drugs administered in office.** The
12 Department of Health and Human Services shall adopt rules by
13 October 15, 2005 that ensure the collection of the full value of
14 rebates owed to the department on injectable prescription drugs
15 that are provided in the office of a physician or in another
16 health care facility and that are paid for by the MaineCare
17 program under the Maine Revised Statutes, Title 22, chapter 855
18 or the elderly low-cost drug program under Title 22, section
19 254. Rules adopted pursuant to this section are routine
20 technical rules as defined in Title 5, chapter 375, subchapter
21 2-A.

22
23
24 **PART C**

25
26 **Sec. C-1. Medicare billing.** By October 15, 2005 the Department
27 of Health and Human Services shall contract for services to
28 recover payments from the federal Medicare program for health
29 care services that would otherwise be paid for under the
30 MaineCare program for persons who are eligible under both
31 programs. The contractor is authorized to submit requests for
32 payment and pursue claims and appeals on behalf of the Department
33 of Health and Human Services, Bureau of Medical Services and
34 dually eligible MaineCare members for health care services,
35 including, but not limited to, skilled nursing facility care and
36 home health care.

37
38 **Sec. C-2. Coordination of benefits.** The Department of Health
39 and Human Services shall coordinate benefits among the MaineCare
40 program under the Maine Revised Statutes, Title 22, chapter 855,
41 the elderly low-cost drug program under Title 22, section 254,
42 the Medicare program under 42 United States Code, Section 1395 et
43 seq. and the federal Medicare Prescription Drug, Improvement, and
44 Modernization Act of 2003. In providing this coordination, the
45 Department of Health and Human Services shall:

46
47
48 A. Maximize federal funding available through the federal
49 Medicaid program and the federal Medicare Prescription Drug,
50 Improvement, and Modernization Act of 2003;

2 B. Coordinate eligibility for the elderly low-cost drug
4 program with eligibility for the federal Medicare program to
6 ensure that persons eligible for the elderly low-cost drug
8 program who are eligible for Medicare Part D benefits do not
10 incur any loss of benefits as compared to other persons
12 receiving benefits under the elderly low-cost drug program
14 or cost sharing above what they would be required to pay
16 under the elderly low-cost drug program; and

18 C. Coordinate eligibility for the MaineCare program with
20 eligibility for the federal Medicare program to ensure that
22 MaineCare members who are eligible for Medicare Part D
24 benefits do not incur any loss of benefits as compared to
26 other MaineCare members or cost sharing above what they
would otherwise be required to pay in the MaineCare
program.

28 **Sec. C-3. Interest on delinquent rebates.** By October 15, 2005
the Department of Health and Human Services shall adopt
procedures to ensure the assessment and collection within the
MaineCare program under the Maine Revised Statutes, Title 22,
chapter 855 and the elderly low-cost drug program under Title 22,
section 254 of an appropriate rate of interest on drug rebate
amounts that are late in payment to the department from the
responsible manufacturer of prescription drugs.

30 **PART D**

32 **Sec. D-1. 22 MRSA §3174-HH is enacted to read:**

34 **§3174-HH. Maximization of veterans' benefits**

36 The department shall conduct a review of benefits available
38 to veterans and their spouses and dependents and shall adopt
40 procedures to provide information to potentially eligible
veterans and their spouses and dependents and to maximize
veterans' benefits. The department shall undertake the following
initiatives.

42 **1. Determination of possible eligibility.** The department
44 shall determine the possible eligibility for federally funded
46 health benefits of veterans, their spouses and dependents who are
48 applicants for or members in the MaineCare program under this
50 chapter or who are applicants for or who receive benefits under
the elderly low-cost drug program under section 254. For those
veterans and their spouses and dependents whom the department
determines to be possibly eligible for federally funded health
benefits, the department shall provide information on those

benefits. The department shall provide information on eligibility for federal Veterans' Aid and Attendance Benefits or Improved Pensions and shall provide assistance in applying for benefits to veterans, their spouses and dependents who live in long-term care facilities or who reside at home but require the daily assistance of another person to live independently.

2. Recovery. When benefits have been provided by the department under the MaineCare program under this chapter or the elderly low-cost drug program under section 254 for which the United States Veterans' Administration is or may be liable, the commissioner shall pursue recovery under section 14 of any amounts owed or potentially owed to the department.

Sec. D-2. Medication administration rules. By January 1, 2006 the Department of Health and Human Services shall determine whether department rules regarding the dispensing and administration of medication in long-term care facilities should be amended for persons living in those facilities who receive benefits under the MaineCare program under the Maine Revised Statutes, Title 22, chapter 855 and who are eligible for or receive benefits for veterans, their spouses or their dependents. If department rules are to be adopted or amended to facilitate the dispensing and administration of medication provided through the United States Veterans' Administration, the department shall adopt or amend those rules by April 1, 2006. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise indicated.

SUMMARY

Part A of this bill increases the tax on cigarettes by \$1 per pack beginning October 15, 2005.

Part B establishes the MaineCare Stabilization Fund, an Other Special Revenue fund, to prevent the loss of services or increased costs of services under the MaineCare program under the Maine Revised Statutes, Title 22, chapter 855 or the elderly low-cost drug program under Title 22, section 254. Part B also requires the collection of the full amount owed to the Department of Health and Human Services of rebates on injectable drugs administered in a health care facility.

Part C requires the Department of Health and Human Services to contract for services to maximize Medicare billing, requires

2 coordination of benefits among the Medicare program and the
MaineCare program and the elderly low-cost drug program. Part C
4 also requires the adoption of procedures to ensure the collection
of interest on late drug rebate payments to the Department of
6 Health and Human Services.

8 Part D contains provisions to maximize federal veterans'
benefits, including reviews of eligibility by the Department of
Health and Human Services, recovery of amounts owed for veterans'
10 care and adoption or amendment of rules regarding administration
of medication to veterans in long-term care facilities.