

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2005

Legislative Document

No. 1555

H.P. 1096

House of Representatives, April 6, 2005

An Act To Improve Quality, Effectiveness and Efficiency in the Department of Health and Human Services

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LERMAN of Augusta.
Cosponsored by Senator NASS of York and
Representatives: BURNS of Berwick, CRAVEN of Lewiston, CROSTHWAITE of Ellsworth,
GROSE of Woolwich, PINGREE of North Haven, WEBSTER of Freeport, Senator: MAYO of
Sagadahoc.

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

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PART A

Sec. A-1. 22 MRSA §42, sub-§9 is enacted to read:

9. Reimbursement, audit and appeal procedures. Beginning January 1, 2006, the following requirements apply to reimbursement, audit and appeals procedures for community-based organizations providing mental retardation and developmental disabilities services to clients of the department through the MaineCare program or through contract or agreement with the department. These procedures apply in addition to the procedures otherwise required by law or rule.

A. In the principles of reimbursement, the department shall adopt a standard definition of "allowable costs" for all principles of reimbursement unless federal law or regulation specifically prohibits the use of the definition for a particular program.

B. The principles of reimbursement for private nonmedical institutions must enable community-based organizations operating private nonmedical institutions to shift variable cost funds within certain designated accounts provided that the totals are met for the private nonmedical institution.

C. The department shall publish on its publically accessible site on the Internet all interpretations of the application of the principles of reimbursement by the department's auditors.

D. When a new interpretation of the application of the principles of reimbursement is made by the department and a previously allowed practice is disallowed by the department through an audit, a new practice replacing the previously allowed practice may not be required prior to the beginning of the next fiscal year after the audit is completed.

E. Appeals by a community-based organization regarding programmatic and budgetary issues must be conducted for the department by an independent decisionmaker.

F. If a community-based organization is successful in an appeal against the department, the decisionmaker shall award to the organization as an allowable cost the cost of legal fees and representation in the appeal.

Sec. A-2. Pilot project. The Department of Health and Human Services shall conduct a pilot project to determine the efficacy of accepting audits by certified public accountants

2 using only a sampling technique to close audits on a more timely
3 schedule. The department shall report to the joint standing
4 committee of the Legislature having jurisdiction over health and
5 human services matters by January 1, 2007 on the results of the
6 pilot project and any recommendations pertaining to the project
7 of the department and the providers of community-based mental
8 retardation and developmental disabilities services.

10 PART B

11 **Sec. B-1. 22 MRSA §3187**, as amended by PL 2003, c. 684, §1,
12 is further amended by adding after the 2nd paragraph a new
13 paragraph to read:

14 Beginning January 1, 2006, the principles of reimbursement
15 must allow the retention of savings by intermediate care
16 facilities for persons with mental retardation up to a maximum
17 amount applicable to all those facilities during a fiscal year
18 that is equal to the amount retained by those facilities during
19 state fiscal year 2003-04 as adjusted by the Consumer Price Index
20 for fiscal year 2005-06 and annually thereafter.

21 **Sec. B-2. Review of rules and regulations.** The Department of
22 Health and Human Services shall convene a working group of
23 department staff, providers of services in intermediate care
24 facilities for persons with mental retardation and developmental
25 disabilities and consumers of mental retardation and
26 developmental disabilities services and their families to review
27 federal regulations and state rules regarding quality assurance,
28 health and safety in all Medicaid waiver programs. The working
29 group shall report its recommendations to the Joint Standing
30 Committee on Health and Human Services by January 1, 2006 and
31 shall include recommendations that focus on outcomes rather than
32 process to reach goals of improved quality, health and safety.
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34 **Sec. B-3. Review of administrative requirements.** The Department
35 of Health and Human Services shall convene a working group of
36 department staff, providers of services in intermediate care
37 facilities for persons with mental retardation and developmental
38 disabilities and consumers of mental retardation and
39 developmental disabilities services and their families to review
40 federal regulations and state rules regarding administrative
41 requirements and to conduct a cost-benefit analysis. The working
42 group shall report its recommendations to the Joint Standing
43 Committee on Health and Human Services by January 1, 2006 and
44 shall include recommendations that address the quality of service
45 and quality of life of residents of intermediate care facilities
46 along with the requirements for administrative process and
47 accountability. The working group must recommend a cost-benefit
48 analysis that is based on objective
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2 criteria that will be required before the imposition of any new
administrative procedures.

4 **Sec. B-4. Standardized data collection, contract formats and financial**
reports. By January 1, 2006, the Department of Health and Human
6 Services shall adopt rules setting forth standardized
requirements for data reporting and collection, contract formats
8 and financial reports for all providers of residential and
community-based services to persons with mental retardation,
10 developmental disabilities and mental illness. The standardized
requirements must apply across all funding sources and must allow
12 for better comparison of costs and service outcomes. Rules
adopted pursuant to this section are routine technical rules as
14 defined in Title 5, chapter 375, subchapter 2-A.

16 **Sec. B-5. Medication course.** The Department of Health and
Human Services shall develop and maintain a medication
18 administration course for employees of residential care
facilities with fewer than 15 residents that are licensed under
20 the Maine Revised Statutes, Title 22, chapter 1663. The course
must consist of 24 hours of training.

22 PART C

24 **Sec. C-1. Deemed status.** By January 1, 2006, the Department
of Health and Human Services shall adopt rules to grant licenses
26 under deemed status to all community mental health, developmental
disability and mental retardation services agencies that have
28 earned national accreditation through the Commission on the
Accreditation of Rehabilitation Facilities, the Council on
30 Accreditation, the Joint Commission on Accreditation of
Healthcare Organizations, the National Association for the
32 Education of Young Children or other national accreditation
body. If the department determines that amendment to law is
34 needed, the department shall report to the Joint Standing
Committee on Health and Human Services recommendations for any
36 necessary amendments to law. Rules adopted pursuant to this
section are routine technical rules as defined in Title 5,
38 chapter 375, subchapter 2-A.

40 **Sec. C-2. Maintenance of Child Development Services System.** The
Department of Education shall maintain the Child Development
42 Services System in substantially the same manner as the system
exists on the effective date of this Act for a time period of at
44 least 2 years.

46 **Sec. C-3. State Board of Nursing.** By January 1, 2006, the State
Board of Nursing shall adopt rules to allow registered nurse
48 training for and supervision of the use of gastrostomy tubes for
the purpose of medication administration, nutrition and
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2 hydration.

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4 **Sec. C-4. Rules review.** The State Board of Nursing and the
6 nursing association representing nurses in the field of
8 developmental disabilities shall review the rules for residential
10 options for persons with developmental disabilities, mental
12 retardation and other medical issues to determine whether Maine
14 law and rules could be changed to increase flexibility in
residential options. By January 1, 2006, the State Board of
Nursing and the participating nursing association shall report to
the Joint Standing Committee on Health and Human Services
regarding recommendations and any proposed changes to rules or
laws.

16 **Sec. C-5. Advocacy.** The Department of Health and Human
18 Services shall actively advocate for and shall work to support
20 federal legislation on improved wages and benefits for direct
22 support professionals working in the fields of developmental
disabilities and mental retardation. The department shall report
to the Joint Standing Committee on Health and Human Services by
January 1, 2006 and every 6 months thereafter on the status of
federal legislation on direct support professionals.

24 **Sec. C-6. Cost-of-living adjustment.** The Department of Health
26 and Human Services shall amend the rules of reimbursement for
28 developmental disabilities and mental retardation services
30 agencies to provide for rate increases as a result of
32 cost-of-living increases. The rules must provide that if the
34 department determines to adopt a rate increase of less than the
36 amount of the cost of living increase, the department must issue
a statement acknowledging the budget imbalance that will be
created for the agencies and must provide guidance to the
providers of services about cost savings that could be achieved
to counterbalance the budget imbalance. Rules adopted pursuant
to this section are routine technical rules as defined in Title
5, chapter 375, subchapter 2-A.

38 **Sec. C-7. Dirigo Health coverage.** By January 1, 2006, the
40 Board of Directors of Dirigo Health shall report to the Joint
42 Standing Committee on Health and Human Services on the
44 feasibility of extending Dirigo Health insurance under the Maine
Revised Statutes, Title 24-A, chapter 87 to all nonprofit
organizations by amending the definition of "eligible business"
under Title 24-A, section 6903, subsection 5.

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48 **SUMMARY**

50 This bill addresses the following issues in the field of
community-based services for persons with developmental

2 disabilities and mental retardation: reimbursement, audit and
3 appeal procedures, rules, regulations and administrative
4 requirements, standardized data, contract formats and financial
5 reports, medication courses, deemed status licensure, maintenance
6 of the Child Development Services System, gastrostomy tubes, rules
7 regarding residential options, advocacy regarding federal
8 legislation, cost-of-living adjustments and Dirigo Health
insurance.