

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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**Legislative Document**

**No. 1566**

H.P. 1091

House of Representatives, March 20, 2007

**An Act To Allow the State Timely Opportunity To Participate in  
Settlement Negotiations for MaineCare Benefits**

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Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.  
Reference to the Committee on Health and Human Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative WEBSTER of Freeport.

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

2 **Sec. 1. 22 MRSA §14, sub-§2-D**, as amended by PL 2003, c. 20, Pt. K, §2, is  
3 further amended to read:

4 **2-D. Notification of claim.** A recipient under the MaineCare program, or ~~any~~ an  
5 agent, representative or attorney representing a recipient under the MaineCare program,  
6 who makes a claim to recover the medical cost of injury, disease, disability or similar  
7 occurrence for which the party received medical benefits under the MaineCare program  
8 shall ~~advise~~ notify the department in writing ~~with~~ prior to settlement negotiations and  
9 provide information as required by the department of the existence of the claim. The  
10 notification must provide timely opportunity for the department, at its discretion, to  
11 participate in all settlement discussions and the allocation of settlement funds for  
12 MaineCare benefits paid. If adequate opportunity to participate is not given and the  
13 department's ability to recover for benefits paid is compromised, the department may  
14 institute legal proceedings against a recipient, including the agent, representative or  
15 attorney of that recipient, who has received a settlement or award from a 3rd party. The  
16 department may accept a letter of MaineCare claim protection in lieu of participation and  
17 allocation.

18 **Sec. 2. 22 MRSA §14, sub-§2-E**, as amended by PL 2003, c. 20, Pt. K, §2, is  
19 further amended to read:

20 **2-E. Notification of pleading.** In ~~any~~ an action to recover the medical cost of  
21 injury, disease, disability or similar occurrence for which the party received medical  
22 benefits under the MaineCare program, the party bringing the action shall notify the  
23 department of that action at least 10 days prior to filing the pleadings. The notification  
24 must provide timely opportunity for the department, at its discretion, to intervene in all  
25 actions as an interested party. If adequate opportunity to intervene is not given and the  
26 department's ability to recover for benefits paid is compromised, the department may  
27 institute legal proceedings against a recipient, including the agent, representative or  
28 attorney of that recipient, who has received a settlement or award from a 3rd party. The  
29 department may accept a letter of MaineCare claim protection in lieu of intervention.  
30 Department records indicating medical benefits paid by the department on behalf of the  
31 recipient are prima facie evidence of the medical expenses incurred by the recipient for  
32 the related medical services.

33 **SUMMARY**

34 Current Maine law requires recipients or their attorneys to notify the Department of  
35 Health and Human Services when they make a claim to recover the medical costs that  
36 were paid by MaineCare. The current law does not specify when the notification must be  
37 made. A recent U.S. Supreme Court decision, Arkansas v. Ahlborn, requires states to  
38 further refine their laws to allow states to participate in negotiations in a timely manner.  
39 This bill grants the State that authority by requiring that notification be made prior to  
40 when settlement negotiations begin.