

MAINE STATE LEGISLATURE

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Date: 06-14-07

(Filing No. S- 319)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
SENATE
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 613, L.D. 1746, Bill, "An Act To Improve MaineCare and Promote Employment"

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

Sec. 1. 19-A MRSA §2001, sub-§5-A is enacted to read:

5-A. Health plan. "Health plan" means a plan of a nonprofit hospital or medical service organization, an insurer, a health maintenance organization or a health insurance carrier licensed pursuant to Title 24 or 24-A; a health program administered by the department or the State in the capacity of provider of health coverage; or a plan of an employer, labor union or other group of persons organized in the State that provides health coverage to covered individuals who are employed or reside in the State. "Health plan" does not include a health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, Medicare supplement, disability income, long-term care or other limited benefit health insurance policies and contracts.

Sec. 2. 19-A MRSA §2001, sub-§5-B is enacted to read:

5-B. Medical care costs. "Medical care costs" means the costs of medical and health care for a child, including but not limited to the cost of enrollment or participation in or purchase of a health plan and any cash payment required of a parent for premium, copayment, deductible, coinsurance and routine and other medical expenses not covered by the health plan. Medical care costs reflect the cost of medical care ordinarily spent for the care of a child by parents living in the same household.

Sec. 3. 19-A MRSA §2001, sub-§5-C is enacted to read:

5-C. Medical support. "Medical support" means support for a child's medical care costs.

Sec. 4. 19-A MRSA §2012 is enacted to read:

COMMITTEE AMENDMENT

12. 8.

1 **§2012. Medical support**

2 The department, after consultation with the Supreme Judicial Court and interested
3 parties, shall adopt rules in accordance with Title 5, chapter 375 establishing medical
4 support. Rules adopted pursuant to this section are routine technical rules pursuant to
5 Title 5, chapter 375, subchapter 2-A.

6 **Sec. 5. 19-A MRSA §2202, sub-§13**, as enacted by PL 2003, c. 20, Pt. K, §1 and
7 amended by c. 689, Pt. B, §6, is further amended to read:

8 **13. Premium from noncustodial parents.** The Department of Health and Human
9 Services, Division of Support Enforcement and Recovery shall collect a premium from
10 noncustodial parents whose children are MaineCare members and who have legally been
11 determined to be responsible for medical care contributions for these children.

12 This subsection is repealed upon adoption of the final federal rules to implement the
13 premium assistance provisions of the federal Deficit Reduction Act of 2005.

14 **Sec. 6. 19-A MRSA §2202, sub-§13-A** is enacted to read:

15 **13-A. Premium from noncustodial parents.** The Department of Health and
16 Human Services, Division of Support Enforcement and Recovery shall collect a premium
17 from noncustodial parents whose children are MaineCare members, including those who
18 receive assistance under Title 22, section 3174-T, and from parents who have legally
19 been determined to be responsible for medical care contributions for these children but do
20 not have access to other health insurance that is at a reasonable cost and that is accessible
21 and comprehensive as determined by rules adopted by the department. The department
22 shall adopt rules to establish a sliding scale for premiums required under this section in
23 accordance with the sliding scale that is applied by the department to custodial parents
24 under 42 United States Code, Section 1396o-1 (2007) or 42 Code of Federal Regulations,
25 Section 457.560 (2006). Rules adopted pursuant to this subsection are routine technical
26 rules as described in Title 5, chapter 375, subchapter 2-A. This subsection takes effect
27 upon adoption of the final federal rules to implement the premium assistance provisions
28 of the federal Deficit Reduction Act of 2005.

29 **Sec. 7. 22 MRSA §14, sub-§2-A**, as amended by PL 2003, c. 20, Pt. K, §2, is
30 further amended to read:

31 **2-A. Assignment of rights of recovery.** The receipt of benefits under the
32 MaineCare program constitutes an assignment by the recipient or any legally liable
33 relative to the department of the right to recover from 3rd parties for the medical cost of
34 injury, disease, disability or similar occurrence for which the recipient receives medical
35 benefits. The department's assigned right to recover is limited to the amount of medical
36 benefits received by the recipient and does not operate as a waiver by the recipient of any
37 other right of recovery against a 3rd party that a recipient may have.

38 The recipient is also deemed to have appointed the commissioner as the recipient's
39 attorney in fact to perform the specific act of submitting claims to insurance carriers or
40 endorsing over to the department any and all drafts, checks, money orders or any other
41 negotiable instruments connected with the payment of 3rd party medical claims, making
42 inquiries, requesting information, verifying other previous, current or potential coverage
43 for the recipient or the recipient's spouse or dependents or endorsing over to the

1 department any and all drafts, checks, money orders or any other negotiable instruments
2 connected with the payment of 3rd-party medical claims to 3rd parties, liable parties or
3 potentially liable 3rd parties. The appointment includes complete access to medical
4 expense records and data, insurance policies and coverage and all other information
5 relating to MaineCare's duty to cost-avoid and seek other coverage or payment response.

6 **Sec. 8. 22 MRSA §14, sub-§2-H, ¶A**, as amended by PL 2003, c. 20, Pt. K, §2,
7 is further amended to read:

8 A. ~~Whenever a participating health care provider or the department submits claims to~~
9 ~~an a health insurer, as defined in Title 24-A, section 4, or to a health maintenance~~
10 ~~organization included in 42 United States Code, Section 1396a(a)(25)(I), including~~
11 ~~self-insured plans, group health plans as defined in the federal Employee Retirement~~
12 ~~Income Security Act of 1974, Section 607(1), service benefit plans, managed care~~
13 ~~organizations, pharmacy benefit managers or other parties that are, by statute,~~
14 ~~contract or agreement, legally responsible for payment of a claim for a health care~~
15 ~~item or service, on behalf of a current or former recipient under the MaineCare~~
16 ~~program for whom an assignment of rights has been received, or whose rights have~~
17 ~~been assigned by the operation of law, the health insurer or health maintenance~~
18 ~~organization doing business in the State must respond to the department within 60~~
19 ~~days of receipt of a claim by forwarding payment or issuing a notice of denial directly~~
20 ~~to the submitter of the claim. and:~~

21 (1) Provide information, with respect to individuals who are eligible for or are
22 provided medical assistance under MaineCare, upon the request of the State, to
23 determine during what period the individual or the individual's spouse or
24 dependents may be or may have been covered by a health insurer and the nature
25 of the coverage that is or was provided by the health insurer, including the name,
26 address and identifying number of the plan, in a manner prescribed by the United
27 States Secretary of Health and Human Services;

28 (2) Accept the State's right of recovery and the assignment to the State of any
29 right of an individual or other entity to payment from the party for an item or
30 service for which payment has been made under the state plan;

31 (3) Respond to any inquiry by the State regarding a claim for payment for any
32 health care item or service that is submitted not later than 3 years after the date of
33 the provision of such health care item or service; and

34 (4) Agree not to deny a claim submitted by the State solely on the basis of the
35 date of submission of the claim, the type or format of the claim form or a failure
36 to present proper documentation at the point-of-sale that is the basis of the claim,
37 if:

38 (a) The claim is submitted by the State within the 3-year period beginning on
39 the date on which the item or service was furnished; and

40 (b) Any action by the State to enforce its rights with respect to such claim is
41 commenced within 6 years of the State's submission of such claim.

1 **Sec. 9. 22 MRSA §14, sub-§3**, as amended by PL 2003, c. 20, Pt. K, §2, is further
2 amended to read:

3 **3. Definitions.** For purposes of this section, "3rd party" or "liable party" or
4 "potentially liable party" means any entity, including, but not limited to, ~~an insurance~~
5 ~~carrier~~ any health insurer as included in 42 United States Code, Section 1396a(a)(25)(I)
6 and any other parties that are, by statute, contract or agreement, legally responsible for
7 payment of a claim for a health care item or service, that may be liable under a contract to
8 provide health, automobile, workers' compensation or other insurance coverage that is or
9 may be liable to pay all or part of the medical cost of injury, disease, disability or similar
10 occurrence of an applicant or recipient of benefits under the MaineCare program. For
11 purposes of this section and sections 18 and 19, an "insurance carrier" includes, but is not
12 limited to, health insurers, group health plans as defined in 29 United States Code,
13 Section 1167(1), service benefit plans and health maintenance organizations, as well as
14 any other entity included in 42 United States Code, Section 1396a(a)(25)(I).

15 "Liable party," "potentially liable party" or "3rd party" also includes the trustee or trustees
16 of any mortuary trust established by the recipient or on the recipient's behalf in which
17 there is money remaining after the actual costs of the funeral and burial have been paid in
18 accordance with the terms of the trust and in which there is no provision that the excess
19 be paid to the decedent's estate. "Liable party," "potentially liable party" or "3rd party"
20 may also include the recipient of benefits under the MaineCare program.

21 **Sec. 10. 22 MRSA §18, sub-§1**, as enacted by PL 1997, c. 795, §5, is amended to
22 read:

23 **1. Program.** The Private Health Insurance Premium Program is operated by the
24 ~~Bureau Office of Medical~~ Office of Medical MaineCare Services within the department and implements the
25 provisions of 42 United States Code, Section 1396a(a)(25)(G) and 1396e. The office
26 shall seek to maximize enrollment in the program by establishing procedures to identify
27 families or individuals with access to other public or private insurance coverage and
28 educating members and employers about the purpose and benefits of the program.

29 **Sec. 11. 24-A MRSA §2847-M** is enacted to read:

30 **§2847-M. Enrollment for individuals or families establishing eligibility for**
31 **MaineCare**

32 When an individual or family is eligible for MaineCare and is also eligible for health
33 insurance coverage provided by an employer, the insurer must permit the individual or
34 family to enroll in the health insurance coverage without regard to any enrollment season
35 restrictions.

36 **Sec. 12. 24-A MRSA §4253** is enacted to read:

37 **§4253. Enrollment for individuals or families establishing eligibility for MaineCare**

38 When an individual or family is eligible for MaineCare and is also eligible for health
39 maintenance organization coverage provided by an employer through a health
40 maintenance organization, the health maintenance organization must permit the
41 individual or family to enroll in the health maintenance organization coverage without
42 regard to any enrollment season restrictions.

1 **Sec. 13. Notification.** The Commissioner of Health and Human Services shall
2 notify the joint standing committee of the Legislature having jurisdiction over health and
3 human services matters and the Revisor of Statutes when the final federal rules to
4 implement the premium assistance provisions of the federal Deficit Reduction Act of
5 2005 have been adopted.

6 **Sec. 14. Retroactivity.** Those sections of this Act that amend or repeal portions of
7 the Maine Revised Statutes, Title 22, section 14 apply retroactively to the extent
8 authorized by state or federal law.'

9

SUMMARY

10 This amendment replaces the bill. It enacts provisions of child support law
11 establishing medical support requirements and expands the option of buying into
12 MaineCare coverage for parents and children who lose MaineCare eligibility due to
13 increased income. It incorporates the assignment of rights of recovery and honoring of
14 assignments applicable to members in the MaineCare program as those provisions were
15 enacted in the biennial budget, PL 2007, chapter 240, Part JJJ, sections 1, 2 and 4 and
16 applies them retroactively to the extent authorized by law. It maximizes use of the
17 Private Health Insurance Premium Program in MaineCare. It allows persons eligible for
18 MaineCare and for coverage through an employer to enroll in group health insurance
19 plans and health maintenance organization coverage without waiting for the next open
20 enrollment period.

21

FISCAL NOTE REQUIRED

22

(See attached)



123rd MAINE LEGISLATURE

LD 1746

LR 370(02)

An Act To Improve MaineCare and Promote Employment

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

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium savings - General Fund

Minor cost increase - General Fund

Fiscal Detail and Notes

The bill could result in increased savings to the MaineCare program. The amount of these savings cannot be determined at this time and will be affected by similar initiatives included in PL 2007, c. 240, the 2008-2009 biennial budget. The costs to the Department of Health and Human Services of implementing this bill can be absorbed utilizing existing budget resources.