

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



STATE LAW LIBRARY
AUGUSTA, MAINE

124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1433

S.P. 517

In Senate, April 7, 2009

An Act Regarding the Creation of Capitated Behavioral Health Pilot Programs

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

Cosponsored by Senators: JACKSON of Aroostook, MARRACHÉ of Kennebec, President MITCHELL of Kennebec, SHERMAN of Aroostook, Representatives: BECK of Waterville, MARTIN of Eagle Lake.

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

2 **Sec. 1. 34-B MRSA §3612** is enacted to read:

3 **§3612. Capitated behavioral health pilot programs**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Administrative services" means administrative services provided by an insurance
7 company or management entity to the network manager, including but not limited to
8 billing, practice management and marketing. "Administrative services" does not
9 include assumption of fiscal responsibility based on behavioral health services use by
10 an eligible resident.

11 B. "Behavioral health services" or "services" means services provided by a provider
12 licensed by the State to provide mental health or substance abuse treatment and
13 services.

14 C. "Capitated system" means a system of delivering, managing and paying for
15 behavioral health services in which payment is based on the number of persons
16 served for a defined period of time. The rate per person may be adjusted based on
17 actuarial projections.

18 D. "Eligible resident" means a resident of Kennebec County, Somerset County or
19 Aroostook County, 21 years of age or older, who is eligible for publicly funded
20 behavioral health services.

21 E. "Network" means the participating providers who contract with the network
22 manager to provide services in a pilot program.

23 F. "Network manager" means the entity that, under contract with the department, is
24 responsible for developing the network, allocating resources, contracting with
25 participating providers and evaluating outcomes.

26 G. "Participating provider" means a provider who contracts with the network
27 manager to provide services in a pilot program. "Participating provider" does not
28 include a state institution as defined in section 1001, subsection 8 or a hospital
29 licensed by the department solely for the treatment of mental illness.

30 H. "Pilot program" means a program of behavioral health services provided through
31 a capitated system established under this section.

32 I. "Provider" means an individual or organization licensed by the State to provide
33 behavioral health services that provides those services in Kennebec County, Somerset
34 County or Aroostook County.

35 **2. Establishment of pilot programs.** The department shall develop 2 pilot programs
36 of behavioral health services provided through a capitated system, one covering eligible
37 residents of Aroostook County and one covering eligible residents of Kennebec County
38 and Somerset County, for a period of 3 to 5 years beginning July 1, 2010. The pilot
39 programs must improve the effectiveness and efficiency of behavioral health services and
40 maintain consumer choice of provider. The department shall operate the pilot programs

1 through contract with a network manager under standards established by rule by the
2 department.

3 **3. Requirements for the pilot programs.** A pilot program must provide behavioral
4 health services that:

5 A. Meet the State's obligations under the consent decree issued on August 20, 1990
6 by the Superior Court, Kennebec County, in Civil Action Docket No. 89-88;

7 B. Include a core set of services that are necessary, efficient and effective and a
8 broader array of services when appropriate;

9 C. Reduce the use of expensive treatment options, such as inpatient hospitalization,
10 in favor of less intensive, community-based behavioral health services;

11 D. Improve access to services in the counties served; and

12 E. As appropriate for eligible residents, include inpatient services at acute care and
13 psychiatric hospitals, 24-hour crisis services, outpatient and community-based
14 services and supports and prescription drug coverage.

15 **4. Requirements for network manager.** The network manager must:

16 A. Be incorporated as a nonprofit behavioral health management organization, with a
17 membership consisting of providers of behavioral health services in the region that
18 will be covered by the pilot program, and have an office and primary place of
19 business in one of the counties in which services will be provided;

20 B. Have provided publicly funded services, through the behavioral health
21 management organization or through its member providers, in at least one of the
22 counties served by the pilot programs prior to being named by the department as
23 network manager; and

24 C. Be governed by a board that includes consumers, family members of consumers,
25 local business people and other community stakeholders who are familiar with the
26 health, welfare and social service needs of eligible residents.

27 **5. Duties of network manager.** The network manager shall operate the pilot
28 program in the county or counties covered by the pilot program, enter into contracts with
29 participating providers, establish access standards for behavioral health services, monitor
30 the quality of care, report to the department information on the outcomes of services
31 provided to eligible residents and pay participating providers for services provided to
32 eligible residents.

33 A. The network manager is accountable to the pilot program for the quality of
34 services delivered to eligible residents based on nationally recognized quality
35 standards.

36 B. The network manager is accountable for performance under the pilot program,
37 whether the network manager provides all services directly or indirectly, through a
38 contract for administrative services with an insurance carrier or managed care
39 company or through a contract for other services provided with another person or
40 entity.

1 6. Funding. Funding for the pilot programs must equal the amount of appropriated
2 General Fund and allocated federal funding spent on behavioral health services, including
3 but not limited to MaineCare, for the eligible residents of Kennebec County, Somerset
4 County and Aroostook County during state fiscal year 2007-08, including crisis services,
5 hospitalization and prescription drug services. Funding for the pilot programs for the
6 entire year at the contracted rate must be allocated to the network manager at the
7 beginning of the contract period to facilitate efficient service implementation and network
8 provider reimbursement.

9 7. Rules; exemption. The department shall adopt rules to carry out the purpose of
10 this section, including rules to exempt the pilot programs from requirements of review,
11 limitation and prior authorization that would otherwise apply under the rules of the
12 department for publicly funded providers of behavioral health services. Rules adopted
13 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
14 subchapter 2-A.

15 8. Support of pilot programs. The department shall support the development of
16 new services or programming for the pilot programs through licensing changes or waivers
17 if such new services or programming is determined by the department to be effective and
18 efficient.

19 9. Behavioral Health Pilot Program Oversight Committee. There is established
20 the 7-member Behavioral Health Pilot Program Oversight Committee, referred to in this
21 subsection as "the committee," to review the work of the pilot programs on a monthly
22 basis. The committee shall review outcomes of the pilot programs on an ongoing basis
23 and report to the joint standing committee of the Legislature having jurisdiction over
24 health and human services matters on the activities and outcomes of the pilot programs in
25 January of each year of the pilot programs. The members are appointed for the duration
26 of the pilot programs.

27 A. The President of the Senate shall appoint 3 members of the Senate and the
28 Speaker of the House of Representatives shall appoint 4 members of the House of
29 Representatives to the committee, giving preference to members of the joint standing
30 committee having jurisdiction over health and human services matters.

31 B. The department shall provide staffing and necessary support services to the
32 committee.

33 10. Evaluation. The department shall contract for the services of an entity to
34 evaluate the operation of the pilot program and the performance of the network manager.
35 The evaluating entity must have experience in the evaluation of capitated systems and
36 must report to the department and the joint standing committee having jurisdiction over
37 health and human services matters by July 1, 2011 and annually thereafter for each year
38 that the pilot program operates.

39 **SUMMARY**

40 This bill establishes 2 capitated behavioral health pilot programs, one in Kennebec
41 County and Somerset County and one in Aroostook County, to serve eligible adult

1 residents of those counties. The programs must provide an array of behavioral health
2 services that meets the State's obligations under the consent decree in Bates v. Harvey,
3 Kennebec County Superior Court Civil Action Docket No. 89-88; provide a core set of
4 behavioral health services that are necessary, efficient and effective; and reduce the use of
5 expensive treatment options, such as inpatient hospitalization, in favor of less intensive,
6 community-based behavioral health service. The pilot programs will be overseen by an
7 oversight committee consisting of Legislators and evaluated by an entity with experience
8 in evaluating capitated behavioral health systems.