

MAINE STATE LEGISLATURE

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EDUCATION AND CULTURAL AFFAIRS

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STATE OF MAINE

SENATE

124TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 707, L.D. 1804, Bill, "An Act To Make Certain MaineCare Rules Regarding Service Provided by the Department of Health and Human Services through the Department of Education Major Substantive Rules"

Amend the bill by striking out the title and substituting the following:

'An Act Concerning Certain MaineCare Rules Regarding Services Provided through the Child Development Services System and School Administrative Units'

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

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this Act is intended to provide legislative oversight of rules adopted by the Department of Health and Human Services that relate to implementation of special education and related services provided through the Child Development Services System and school administrative units; and

Whereas, it is critical that this oversight begin as soon as possible to ensure protection of children in this State in need of services; and

Whereas, this legislation must take effect prior to July 1, 2010 in order for the Department of Health and Human Services and the Department of Education to provide information and training to Child Development Services System regional sites and school administrative units regarding the implementation of revised rules governing Medicaid payment for services that qualify for reimbursement; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

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

COMMITTEE AMENDMENT

1 **Sec. 1. 22 MRSA §3174-PP** is enacted to read:

2 **§3174-PP. Medicaid reimbursement for eligible services provided through the Child**
3 **Development Services System and school administrative units**

4 **1. Consultation.** Prior to adopting or amending any rule that pertains to the
5 administration of a program of Medicaid coverage established by the department pursuant
6 to this chapter for services that qualify for reimbursement and are provided through the
7 auspices of the Child Development Services System and school administrative units in
8 accordance with the federal Individuals with Disabilities Education Act, 20 United States
9 Code, Section 1400 et seq., the Office of MaineCare Services shall consult with the
10 following interested parties on the proposed adoption or amendment of rules:

11 A. The Commissioner of Education or the commissioner's designee;

12 B. The Executive Director of the Maine School Management Association or the
13 executive director's designee;

14 C. The executive director of a statewide organization of administrators of services
15 for children with disabilities or the executive director's designee;

16 D. The executive director of a statewide organization for disability rights or the
17 executive director's designee; and

18 E. The Executive Director of the Maine Developmental Disabilities Council or the
19 executive director's designee.

20 **2. Monthly report.** The Office of MaineCare Services shall prepare and submit at
21 the beginning of each month a report that includes a detailed statement of the status of
22 any proposed adoption or amendment of rules that pertain to the Medicaid programs
23 specified in subsection 1 to the joint standing committee of the Legislature having
24 jurisdiction over education matters and the joint standing committee of the Legislature
25 having jurisdiction over health and human services matters.

26 **Sec. 2. Rules.** The Department of Health and Human Services shall amend or
27 adopt routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375,
28 subchapter 2-A, including rules that address the following:

29 1. Inclusion of the interested parties identified in Title 22, section 3174-PP,
30 subsection 1 in the MaineCare Advisory Committee. The rules must also provide that:

31 A. The department and the interested parties agree upon a process that is appropriate
32 for reviewing the scope of the policy considerations that pertain to the Medicaid
33 programs specified in Title 22, section 3174-PP, subsection 1; and

34 B. The interested parties may serve as members of the MaineCare Advisory
35 Committee or as members of a subcommittee of the MaineCare Advisory Committee,
36 as agreed to by the department after consultation with the interested parties; and

37 2. Obtaining the maximum available federal revenue from the Medicaid program for
38 services that qualify for reimbursement and minimizing the administrative burden for the
39 Child Development Services System regional sites and school administrative units.

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Sec. 3. Rules review. The Department of Education and the Department of Health and Human Services shall review the Department of Health and Human Services Chapter 101 rules including, but not limited to, the MaineCare Benefits Manual, Chapters II and III, Sections 28, 41, 65, 68, 85, 96 and 109, in order to ensure that the rules satisfy federal Medicaid requirements applicable to services provided through the auspices of the Child Development Services System and school administrative units and to also ensure continued access by Child Development Services System regional sites and schools to Medicaid payment for services that qualify for reimbursement. The Department of Education and the Department of Health and Human Services shall invite the participation of the following entities in conducting the review:

1. The Attorney General or the Attorney General's designee;
2. The Executive Director of the Maine School Management Association or the executive director's designee;
3. The Executive Director of the Maine Administrators of Services for Children with Disabilities or the executive director's designee;
4. The Executive Director of the Disability Rights Center or the executive director's designee; and
5. The Executive Director of the Maine Developmental Disabilities Council or the executive director's designee.

Sec. 4. Interim and final reports. No later than May 15, 2010, the Commissioner of Education and the Commissioner of Health and Human Services shall submit an interim report on the status of the rules reviewed under section 3 to the Joint Standing Committee on Education and Cultural Affairs. No later than July 1, 2010, the commissioners shall submit a 2nd interim report on the status of the rules reviewed under section 3, including preliminary recommendations on any proposed changes to the rules, to the Joint Standing Committee on Education and Cultural Affairs. The commissioners shall present a final report, including any recommendations and the status of the rules reviewed under section 3 by January 3, 2011 to the joint standing committee of the Legislature having jurisdiction over education matters.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)
Bureau of Medical Services 0129
Initiative: Provides funds for the costs of one Comprehensive Health Planner II position and related costs for the additional workload required for MaineCare program rules regarding services provided through the auspices of the Child Development Services System and school administrative units.

GENERAL FUND	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
Personal Services	\$0	\$38,634

1	All Other	\$0	\$4,473
2			
3	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$43,107</u>
4	FEDERAL EXPENDITURES FUND	2009-10	2010-11
5	Personal Services	\$0	\$38,634
6	All Other	\$0	\$4,473
7			
8	FEDERAL EXPENDITURES FUND TOTAL	<u>\$0</u>	<u>\$43,107</u>
9	HEALTH AND HUMAN SERVICES,		
10	DEPARTMENT OF (FORMERLY DHS)		
11	DEPARTMENT TOTALS	2009-10	2010-11
12			
13	GENERAL FUND	\$0	\$43,107
14	FEDERAL EXPENDITURES FUND	\$0	\$43,107
15			
16	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$86,214</u>
17			

SUMMARY

This amendment replaces the bill to establish parameters for the adoption or amendment of MaineCare program rules regarding reimbursement payments for eligible services provided through the auspices of the Child Development Services System and school administrative units. The amendment provides that:

1. The Department of Health and Human Services, Office of MaineCare Services shall consult with the Department of Education and other interested parties prior to the adoption or amendment of any Medicaid rule that pertains to special education and related services that are provided in accordance with the federal Individuals with Disabilities Education Act;

2. The Department of Health and Human Services, Office of MaineCare Services shall prepare a monthly report to the joint standing committee of the Legislature having jurisdiction over education matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters on the status of any proposed adoption or amendment of Medicaid program rules that pertain to special education and related services that are provided in accordance with the federal Individuals With Disabilities Education Act;

3. The Department of Health and Human Services is required to amend or adopt Medicaid program rules to provide for the inclusion of a group of interested parties in the MaineCare Advisory Committee;

4. The Department of Health and Human Services and the Department of Education are required to review the Department of Health and Human Services Chapter 101 rules,

1 including, but not limited to, the MaineCare Benefits Manual, Chapters II and III,
2 Sections 28, 41, 65, 68, 85, 96 and 109, in order to ensure that the rules satisfy certain
3 federal Medicaid requirements and to ensure continued access by Child Development
4 Services System regional sites and schools to Medicaid payment for services that qualify
5 for reimbursement; and

6 5. The Commissioner of Education and the Commissioner of Health and Human
7 Services are required to submit interim reports and a final report on the status of the rules
8 review to the joint standing committee of the Legislature having jurisdiction over
9 education matters and the joint standing committee of the Legislature having jurisdiction
10 over health and human services matters.

11 This amendment also adds an appropriations and allocations section.

12 **FISCAL NOTE REQUIRED**

13 **(See attached)**



124th MAINE LEGISLATURE

LD 1804

LR 2593(02)

An Act To Make Certain MaineCare Rules Regarding Service Provided by the Department of Health and Human Services through the Department of Education Major Substantive Rules

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

Committee: Education and Cultural Affairs

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Net Cost (Savings)				
General Fund	\$0	\$43,107	\$44,575	\$46,099
Appropriations/Allocations				
General Fund	\$0	\$43,107	\$44,575	\$46,099
Federal Expenditures Fund	\$0	\$43,107	\$44,575	\$46,099

Fiscal Detail and Notes

Provides an appropriation of \$43,107 in fiscal year 2010-11 for the Office of MaineCare Services in the Department of Health and Human Services for the state share of the costs of one Comprehensive Health Planner II position and related costs for the additional workload required for MaineCare program rules regarding services provided through the auspices of the Child Development Services System and school administrative units. Assumes federal matching funds would also be available for this purpose.

Additional costs to the Department of Education to fulfill the requirements of this legislation can be absorbed within existing budgeted resources.