

MAINE STATE LEGISLATURE

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L.D. 1629

Date: 3-23-12

MAJORITY

(Filing No. S-470)

HEALTH AND HUMAN SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

125TH LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 539, L.D. 1629, Bill, "An Act To Allow for a Contingency Fee Agreement with a MaineCare Recovery Audit Contractor"

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

'An Act To Allow for a Contingency Fee Agreement with a MaineCare Program Integrity Recovery Audit Contractor'

Amend the bill by striking out everything after the title and before the summary 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, the detection of errors in reimbursement and the collection of overpayments and correction of underpayments for services in the MaineCare program within the Department of Health and Human Services are critical to the integrity of the program and to compliance with the requirements of federal law; and

Whereas, initiating the services of a recovery audit contractor for the MaineCare program in a timely manner is important to the fiscal integrity of the program and to compliance with federal law; 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,

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

Sec. 1. 22 MRSA §13-A is enacted to read:

§13-A. MaineCare program integrity recovery audit contractor agreement

Notwithstanding any other provision of law to the contrary, the provisions of this section apply to MaineCare program integrity recovery audit contracting. The

COMMITTEE AMENDMENT

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1 department may enter into an agreement with a recovery audit contractor for the purpose
 2 of ensuring MaineCare program integrity, specifically to identify and reimburse to correct
 3 underpayments and to identify and recoup overpayments under the Medicaid state plan
 4 and under any waiver of the state plan. An agreement entered into under this section must
 5 provide that payment to the contractor may be made only from amounts recovered and
 6 that payments for identifying underpayments and collecting overpayments must be made
 7 on a contingent fee basis. After payments to correct underpayments and payment of any
 8 contingent fees due to the contractor, the proceeds of collections from overpayments must
 9 be deposited into the Medical Care - Payments to Providers program, Other Special
 10 Revenue Funds account in the Department of Health and Human Services for the purpose
 11 of providing state match under the federal Medicaid program.

12 **Emergency clause.** In view of the emergency cited in the preamble, this
 13 legislation takes effect when approved.'

14 **SUMMARY**

15 This amendment is the majority report of the committee. This amendment adds an
 16 emergency preamble and emergency clause to the bill. It changes the title of the bill. It
 17 retains the provisions of the bill that authorize the Department of Health and Human
 18 Services to enter into agreements for the purpose of ensuring Maine Care program
 19 integrity with a recovery audit contractor as required under Section 6411 of the federal
 20 Patient Protection and Affordable Care Act, Public Law 111-148. It clarifies that the
 21 audits are intended to identify and correct underpayments and identify and recoup
 22 overpayments. It requires an agreement to provide that the contractor may be paid only
 23 from amounts recovered and that payments for identifying underpayments and collecting
 24 overpayments must be made on a contingent fee basis. It adds a requirement that the
 25 overpayments collected, less the contingent fees paid to the contractor, are paid into the
 26 Medical Care - Payments to Providers program, Other Special Revenue Funds account in
 27 the Department of Health and Human Services.

28 **FISCAL NOTE REQUIRED**

29 **(See attached)**



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125th MAINE LEGISLATURE

LD 1629

LR 2491(02)

An Act To Allow for a Contingency Fee Agreement with a MaineCare Recovery Audit Contractor

Fiscal Note for Bill as Amended by Committee Amendment "A" **S470**

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium savings - General Fund

Fiscal Detail and Notes

PL 2011, c. 380 (the 2012-2013 Biennial Budget) assumed \$1.3 million in 2012-13 General Fund savings "as a result of recoveries from Maine's' recently approved state plan amendment to use a recovery audit contractor to address overpayments to providers". This bill authorizes the Department of Health and Human Services to enter into an agreement with a MaineCare recovery audit contractor on a contingency basis consistent with the assumed savings proposal in the biennial budget. While there is the potential for MaineCare savings in addition to those assumed in the biennial budget, these are not quantifiable at the present time and will depend on actual experience with the contractor.