

MAINE STATE LEGISLATURE

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Date: 6/6/2013

(Filing No. S-221)

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STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 759, L.D. 1066, Bill, "An Act To Increase Access to Health Coverage and Qualify Maine for Federal Funding"

Amend the amendment in Part A by inserting after section 4 the following:

'Sec. A-5. Repeal. The Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H and I are repealed December 31, 2016.'

Amend the amendment in Part B by striking out all of section 1 and inserting the following:

'Sec. B-1. Obtaining federal approval for enhanced federal match. The Commissioner of Health and Human Services shall take all steps necessary to secure an enhanced Federal Medical Assistance Percentage for services provided to the MaineCare childless adult waiver population in the State equal to that available under the federal Patient Protection and Affordable Care Act for newly eligible Medicaid individuals. By July 1, 2013, the commissioner shall prepare and submit to the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services in a format required by the Secretary of the federal Department of Health and Human Services an analysis of the benefits available under the MaineCare childless adult waiver population as of December 1, 2009 and all necessary information to certify that members of the childless adult population were not eligible on December 1, 2009 to receive full benefits, benchmark coverage as described in Section 1937(b)(1), subparagraph (A), (B) or (C) of the United States Social Security Act or benchmark equivalent coverage as described in 42 United States Code, Section 1397(b)(2). In preparing and submitting this analysis, the commissioner shall compare the services available to the childless adult population, specifically hearing services, to those of the 3 benchmark plans specified by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services and shall indicate to the secretary whether hearing services were a covered service for the childless adult population as of December 1, 2009 and whether they are a covered service under the 3 benchmark plans. The Commissioner of Health and Human Services shall submit information certified by an actuary for the purpose of certifying the benefits available to the childless adult population on December 1, 2009 if required to do so by the secretary. If the secretary does not require information certified by an actuary for that purpose, the commissioner may not pursue the services of an actuary or submit

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1 information certified by an actuary for the purpose of certifying the benefits available to
2 the childless adult population on December 1, 2009. If the secretary requires the
3 submission of additional information to demonstrate that members of the childless adult
4 population otherwise qualify as "newly eligible" individuals as described in Section
5 1905(y)(2) of the United States Social Security Act, in order for the State to secure an
6 enhanced Federal Medical Assistance Percentage as set forth in Section 1905(y)(1) of the
7 United States Social Security Act, the Department of Health and Human Services shall
8 provide all required information to the secretary within 30 days of the secretary's sending
9 notification that additional information is required.'

10 Amend the amendment in Part C by striking out all of sections 1 and 2 and inserting
11 the following:

12 **'Sec. C-1. Research organization evaluation.** The Office of Fiscal and
13 Program Review shall contract with a private, nonpartisan research organization to
14 evaluate the impact of the MaineCare expansion authorized in Part A on programs and
15 services that do not currently receive Federal Medical Assistance Percentage matching
16 funds or do not qualify for enhanced Federal Medical Assistance Percentage matching
17 funds under the federal Patient Protection and Affordable Care Act, with the goal of
18 identifying and maximizing General Fund savings. The Commissioner of Health and
19 Human Services, the Commissioner of Corrections and the Executive Director of the
20 State Board of Corrections shall provide to the research organization information and
21 assistance requested for preparation of the evaluation. In evaluating the programs and
22 services under this Part, the research organization shall at a minimum evaluate the impact
23 on the following programs and services: the state-funded Mental Health Services -
24 Community, Office of Substance Abuse and General Assistance - Reimbursement to
25 Cities and Towns programs; the elderly low-cost drug program under the Maine Revised
26 Statutes, Title 22, section 254-D; services provided for individuals between 21 and 64
27 years of age who are currently eligible for MaineCare under medically needy, spend-
28 down criteria; services provided under the Maine HIV/AIDS Section 1115 Demonstration
29 Waiver; services provided for parents participating in family reunification activities;
30 services provided for disabled individuals between 21 and 64 years of age with incomes
31 below 139% of the federal poverty level; services provided to individuals awaiting a
32 MaineCare disability determination for whom the applications are subsequently granted;
33 services provided to individuals who would have been considered eligible on the basis of
34 a disability but for whom the full determination process was not completed; medical
35 services provided to persons in the care and custody of the Department of Corrections or
36 a county correctional facility; and the amount of payment for services that hospitals
37 received during calendar years 2014 and 2015 as a result of the expansion of MaineCare
38 eligibility pursuant to Part A. In addition, the research organization shall evaluate any
39 savings and the impact on health outcomes achieved through initiatives implemented
40 pursuant to the State Innovation Models Initiative grant.

41 **Sec. C-2. Report.** The research organization that conducts the evaluation under
42 section 1 shall report no later than March 1st in 2014 and 2015 and February 15th in 2016
43 to the joint standing committee of the Legislature having jurisdiction over appropriations
44 and financial affairs, the joint standing committee of the Legislature having jurisdiction
45 over health and human services matters and the joint standing committee of the
46 Legislature having jurisdiction over criminal justice and public safety matters on the

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1 amount of General Fund savings resulting from the MaineCare expansion authorized in
2 Part A and identified in section 1. The reports must include the amount of savings
3 realized during calendar years 2014 and 2015 by service area or program, the amount
4 deposited in the MaineCare Stabilization Fund pursuant to section 3 and the amount of
5 savings projected to be achieved through state fiscal year 2020-21 by service area or
6 program.'

7 Amend the amendment in Part C in section 3 in the 5th line (page 4, line 7 in
8 amendment) by striking out the following: "section 4" and inserting the following:
9 'section 6'

10 Amend the amendment in Part C in section 3 in the 8th line (page 4, line 10 in
11 amendment) by striking out the following: "section 4" and inserting the following:
12 'section 6'

13 Amend the amendment in Part C by inserting after section 3 the following:

14 **'Sec. C-4. Review and responsibility.** Following receipt of the reports from the
15 research organization as required under section 2, the joint standing committee of the
16 Legislature having jurisdiction over health and human services matters shall review the
17 information provided in the reports and shall determine if the net cost to the General Fund
18 of providing coverage under the MaineCare program to individuals pursuant to Part A,
19 section 3 exceeds the savings to the General Fund, including any amount deposited in the
20 MaineCare Stabilization Fund pursuant to section 3, due to the expansion of coverage for
21 those individuals. Following its review of the report received on February 15, 2016, the
22 joint standing committee may report out a bill to the 127th Legislature regarding its
23 determinations and conclusions.

24 **Sec. C-5. Appropriations and allocations.** The following appropriations and
25 allocations are made.

26 **LEGISLATURE**

27 **Legislature 0081**

28 Initiative: Provides funding for the Office of Fiscal and Program Review to contract with
29 a private, nonpartisan research organization to evaluate the impact of Medicaid
30 expansion.

| | | | |
|----|---------------------------|------------------|----------------|
| 31 | GENERAL FUND | 2013-14 | 2014-15 |
| 32 | All Other | \$100,000 | \$0 |
| 33 | | | |
| 34 | GENERAL FUND TOTAL | <u>\$100,000</u> | <u>\$0</u> |
| 35 | | | |

36 Amend the amendment by inserting after Part D the following:

37 **'PART E**

38 **Sec. E-1. 22 MRSA §3173-C, sub-§7,** as amended by PL 2009, c. 415, Pt. A,
39 §12, is further amended to read:

1 **7. Copayments.** Notwithstanding any other provision of law, the following
2 copayments per service per day are imposed and reimbursements are reduced, or both, to
3 the following levels:

- 4 A. Outpatient hospital services, \$3;
- 5 B. Home health services, \$3;
- 6 C. Durable medical equipment services, \$3;
- 7 D. Private duty nursing and personal care services, \$5 per month;
- 8 E. Ambulance services, \$3;
- 9 F. Physical therapy services, \$2;
- 10 G. Occupational therapy services, \$2;
- 11 H. Speech therapy services, \$2;
- 12 I. Podiatry services, \$2;
- 13 J. Psychologist services, \$2;
- 14 K. Chiropractic services, \$2;
- 15 L. Laboratory and x-ray services, \$1;
- 16 M. Optical services, \$2;
- 17 N. Optometric services, \$3;
- 18 O. Mental health clinic services, \$2;
- 19 P. Substance abuse services, \$2;
- 20 Q. Hospital inpatient services, \$3 per patient day;
- 21 R. Federally qualified health center services, \$3 per patient day, effective July 1,
22 2004; and
- 23 S. Rural health center services, \$3 per patient day.

24 The department may adopt rules to adjust the copayments set forth in this subsection.
25 The rules may adjust amounts to ensure that copayments are deemed nominal in amount
26 and may include monthly limits or exclusions per service category. The need to maintain
27 provider participation in the Medicaid program to the extent required by 42 United States
28 Code, Section 1396a(a)(30)(A) or any successor provision of law must be considered in
29 any reduction in reimbursement to providers or imposition of copayments.

30 For an adult when the adult's family income is above 100% of the nonfarm income
31 official poverty line, the department shall adopt rules to adjust the copayments
32 established under this subsection to reflect the maximum allowable amounts authorized
33 under 42 United States Code, Section 1396o; to increase copayments as authorized by 42
34 United States Code, Section 1396o(h); and in compliance with Section 1396o(b)(3) to
35 impose a copayment for services received at a hospital emergency room of up to twice
36 the amount established as the copayment for outpatient services if the services are not
37 emergency services. The department shall track aggregate copayments in compliance

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1 with 42 Code of Federal Regulations, Section 447.68 and, by rule, make adjustments to
2 copayments to ensure compliance with federal law.

3 **Sec. E-2. Contingent effective date.** Those sections of this Act that enact the
4 Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H and I take
5 effect 30 days after the United States Department of Health and Human Services, Centers
6 for Medicare and Medicaid Services confirms in writing to the Commissioner of Health
7 and Human Services that the enhanced Federal Medical Assistance Percentage set forth in
8 Section 1905(y)(1) of the United States Social Security Act is applicable to the
9 individuals who received coverage as of December 1, 2009, who are described in Title
10 22, section 3174-G, subsection 1, paragraph F and who are defined in Section 1905(y)(2)
11 of the United States Social Security Act. Upon receipt of confirmation from the federal
12 Centers for Medicare and Medicaid Services, the Commissioner of Health and Human
13 Services shall notify in writing the President of the Senate, the Speaker of the House of
14 Representatives and the Revisor of Statutes and shall provide them with a copy of the
15 written confirmation.'

16 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
17 or section number to read consecutively.

18 **SUMMARY**

19 This amendment repeals the expansion of medical coverage under the MaineCare
20 program on December 31, 2016.

21 This amendment requires the Commissioner of Health and Human Services to
22 provide certain information to the Secretary of the United States Department of Health
23 and Human Services to enable the secretary to make the determination as to the eligibility
24 of the State to obtain an enhanced Federal Medical Assistance Percentage for services for
25 MaineCare members eligible as childless adults. The amendment provides in Part E that
26 until the secretary confirms that the State will get the enhanced reimbursement rate,
27 which is 100% federal Medicaid reimbursement for calendar years 2014, 2015 and 2016
28 and as further set forth in the federal Patient Protection and Affordable Care Act, for the
29 childless adult population in MaineCare, including persons who were members under that
30 eligibility grouping on December 1, 2009, the expansion of medical coverage under the
31 MaineCare program will not take effect. The amendment requires the commissioner,
32 upon receiving confirmation from the United States Department of Health and Human
33 Services, Centers for Medicare and Medicaid Services, to notify the President of the
34 Senate, the Speaker of the House of Representatives and the Revisor of Statutes and to
35 provide them with a copy of the written confirmation.

36 This amendment requires the Office of Fiscal and Program Review to contract with a
37 private, nonpartisan research organization to evaluate the impact of the MaineCare
38 expansion authorized in Part A and changes the reporting entity to the research
39 organization. This amendment adds to the services evaluated under Part C, section 1 the
40 amount of payment for services that hospitals received during calendar years 2014 and
41 2015 as a result of the expansion of MaineCare eligibility pursuant to Part A, section 3
42 and any savings and impact on health outcomes achieved through the State Innovation
43 Models Initiative grant. The amendment changes the reporting dates for the reports on
44 General Fund savings in Part C, section 2 to March 1st in 2014 and 2015 and February

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 759, L.D. 1066

1 15th in 2016, includes in savings any amount credited to the MaineCare Stabilization
2 Fund and extends the years for projecting savings through fiscal year 2020-21. The
3 amendment directs the joint standing committee of the Legislature having jurisdiction
4 over health and human services matters to review the information provided in the reports
5 from the research organization under Part C, section 2 and to determine if the net cost to
6 the General Fund of providing coverage under the MaineCare program to individuals
7 pursuant to Part A, section 3 exceeds the savings to the General Fund, including any
8 amount deposited in the MaineCare Stabilization Fund pursuant to Part C, section 3, due
9 to the expansion of coverage for those individuals.

10 It adds a new Part E that amends current law on copayments in the MaineCare
11 program. This amendment directs the Department of Health and Human Services to
12 increase copayments for adults with income above 100% of the nonfarm income official
13 poverty line to the maximum allowable under federal law and to increase nominal
14 copayments by the annual percentage increase in the medical care component of the
15 Consumer Price Index for All Urban Consumers. This amendment directs the department
16 to increase MaineCare copayments for services provided in a hospital emergency room
17 when the services are not emergency services. This amendment requires the department
18 to track aggregate copayments in compliance with federal law.

19 **FISCAL NOTE REQUIRED**

20 (See attached)

21 SPONSORED BY: _____

22 (Senator KATZ)

23 COUNTY: Kennebec



126th MAINE LEGISLATURE

LD 1066

LR 1098(09)

An Act To Increase Access to Health Coverage and Qualify Maine for Federal Funding

Fiscal Note for Senate Amendment "A" to Committee Amendment "A"

Sponsor: Sen. Katz of Kennebec

Fiscal Note Required: Yes

Fiscal Note

| | FY 2013-14 | FY 2014-15 | Projections FY 2015-16 | Projections FY 2016-17 |
|-----------------------------------|------------|------------|---------------------------|---------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$100,000 | \$0 | \$0 | \$0 |
| Appropriations/Allocations | | | | |
| General Fund | \$100,000 | \$0 | \$0 | \$0 |

Fiscal Detail and Notes

This amendment adds an additional General Fund appropriation of \$100,000 in fiscal year 2013-14 to provide funding for the Office of Fiscal and Program Review to contract with a private, nonpartisan research organization to evaluate the impact of MaineCare expansion. The amendment's December 31, 2016 repeal of the MaineCare expansion could result in a decrease in fiscal year 2016-17 General Fund estimated costs of \$8,946,211 and Federal Expenditures Fund costs of \$169,978,001. However, any requirements to provide transitional MaineCare assistance for this population would delay the savings until the following fiscal year .

Requiring the Department of Health and Human Services to adjust copayments could reduce MaineCare spending as a result of reduced net payments and reduced utilization. The amount and timing of these reductions cannot be determined at this time. The costs to the department to implement and administer these adjusted copayments cannot be determined at this time.