

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1829

H.P. 1317

House of Representatives, March 18, 2014

**An Act To Require the Department of Health and Human Services
To Report Annually on Investigations and Prosecutions of False
Claims Made under the MaineCare, Temporary Assistance for
Needy Families and Food Supplement Programs**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GATTINE of Westbrook.
Cosponsored by Senator LACHOWICZ of Kennebec and
Representatives: FREY of Bangor, SANBORN of Gorham.

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

3 **Whereas,** the discovery and investigation of program integrity issues made under
4 the MaineCare, Temporary Assistance for Needy Families and food supplement programs
5 are beneficial to the State and lawful participants in the MaineCare, Temporary
6 Assistance for Needy Families and food supplement programs; and

7 **Whereas,** decreasing the number of fraudulent claims made under the MaineCare,
8 Temporary Assistance for Needy Families and food supplement programs is beneficial to
9 the State and its citizens and should begin as soon as possible; and

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

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

15 **Sec. 1. 22 MRSA §§20 and 20-A** are enacted to read:

16 **§20. Report of department's efforts to investigate MaineCare program integrity**

17 The department shall design a comprehensive and well-coordinated system to ensure
18 that public funds are well managed and dispensed for the purposes for which they are
19 appropriated and deliver the best value for the people that they serve.

20 The department shall report annually by February 15th to the joint standing
21 committee of the Legislature having jurisdiction over health and human services matters
22 and the joint standing committee of the Legislature having jurisdiction over financial
23 affairs regarding MaineCare program integrity efforts of the department, including efforts
24 to investigate and prosecute fraudulent incidents or practices. The report must contain the
25 following information:

26 **1. MaineCare programs.** The following baseline information for the prior year for
27 MaineCare programs:

28 A. The total unduplicated number of households, children, persons with disabilities
29 and seniors receiving assistance under each MaineCare program; and

30 B. The total MaineCare program expenditure in general funds, federal allocations
31 and any special revenue funds;

32 **2. Description of program integrity efforts of department.** A description of the
33 department's efforts under this section, including any efforts made in cooperation with
34 federal agency partners in investigating and prosecuting fraudulent claims and
35 overpayments and provider, vendor and retailer fraud and overpayment, including:

36 A. The number of staff investigating cases;

37 B. The number of cases opened, investigated and disposed of;

- 1 C. The sources of the cases opened;
2 D. The dispositions of the cases closed;
3 E. The number and amount of fraudulent overpayments recovered and fines or
4 penalties actually imposed, expressed in absolute dollar values and as percentages of
5 all funds spent in each program;
6 F. The amount of recoveries of fraudulent claims reclaimed by the Federal
7 Government;
8 G. All costs associated with all activities related to discovering, investigating and
9 prosecuting cases in which fraud was alleged, whether or not fraud was determined to
10 exist, for each program, both in absolute dollar values and as percentages of each
11 program;
12 H. The average length of time to recover fraudulent overpayments and fines or
13 penalties imposed from the time cases are opened until the time overpayments and
14 fines or penalties are repaid in full;
15 I. The amount of fraudulent overpayments determined as uncollectible;
16 J. The amount of fraudulent overpayments recovered by type of offender;
17 K. The amount of fraudulent overpayments recovered by a business unit within the
18 department's audits and program integrity activities group;
19 L. The number of MaineCare providers, retailers or vendors, by type, that are
20 terminated from participation or otherwise sanctioned from participation in public
21 programs as a result of program integrity activities;
22 M. The amount of all recoveries of fraudulent overpayments received as a result of
23 multistate litigation against pharmaceutical companies or other providers; and
24 N. The dollar amount, by provider type, of any overpayment recoveries;

25 **3. Referrals to Attorney General.** The status of cases referred to the Attorney
26 General's health care crimes or other unit or other law enforcement entities and the
27 number and disposition of those cases and the amount of overpayments recovered, all
28 detailed on a per case basis;

29 **4. Performance and activities of vendor, contractor or other program integrity**
30 **unit used by the department.** If the department uses a vendor, contractor or other
31 program integrity unit to assist in the identification and recovery of overpayments, a
32 description of the performance and activities of the vendor, contractor or other program
33 integrity unit used by the department. The report must include what the scope of the
34 vendor's, contractor's or other program integrity unit's activity is, what payments have
35 been made to the vendor, contractor or other program integrity unit, how many cases have
36 been opened, how many overpayments have been recovered and any other benefits from
37 the vendor's, contractor's or other program integrity unit's involvement;

38 **5. Department's participation in federally mandated program integrity efforts.**
39 A description of the department's participation in federally mandated program integrity
40 efforts, including the federal Centers for Medicare and Medicaid Services Recovery

1 Audit Program and Payment Error Rate Measurement program, and the impact of this
2 participation on department resources and money recovered and the number of providers
3 sanctioned and referrals made as a result of this participation;

4 **6. Results of federal audits.** The results of any federal audits of the department's
5 program integrity activities, including weaknesses identified and best practices identified;

6 **7. Defects, deficiencies or weaknesses in department systems.** A description of
7 any known defects, deficiencies or weaknesses in any systems managed or used by the
8 department that resulted in the improper or inaccurate payment of claims or benefits,
9 including but not limited to the Medicaid information system, provider enrollment system
10 and eligibility determination system. The report must include an estimate of the financial
11 impact of these issues and a timeline for remediation and a description of any known
12 defects, deficiencies or weaknesses in any systems managed or used by the department
13 that have been corrected and an estimate of the cost of and any savings from these
14 corrections;

15 **8. Planned investments in technology.** A description of any investments in
16 technology planned by the department to improve efforts to prevent improper payments;
17 and

18 **9. Policy changes or improvements.** A description of any policy changes or
19 improvements implemented by the department to improve the accurate payment of claims
20 and benefits.

21 **§20-A. Report of department's efforts to investigate program integrity made under**
22 **the Temporary Assistance for Needy Families and food supplement**
23 **programs**

24 The department shall design comprehensive and well-coordinated systems to ensure
25 that public funds are well managed and dispensed for the purposes for which they are
26 appropriated and deliver the best value for the people that they serve.

27 The department shall report annually by February 15th to the joint standing
28 committee of the Legislature having jurisdiction over health and human services matters
29 and the joint standing committee of the Legislature having jurisdiction over financial
30 affairs regarding the program integrity efforts of the department in the Temporary
31 Assistance for Needy Families program and the food supplement program under section
32 3104, including efforts to investigate and prosecute fraudulent incidents or practices. The
33 report must contain the following information:

34 **1. Temporary Assistance for Needy Families and food supplement programs.**
35 The following baseline information for the prior year for the Temporary Assistance for
36 Needy Families and food supplement programs:

37 A. The total unduplicated number of households, children, persons with disabilities
38 and seniors receiving assistance under each program;

39 B. The average monthly benefit for each program in general funds, federal
40 allocations and any special revenue funds; and

1 C. The total program expenditure in general funds, federal allocations and any
2 special revenue funds for each program;

3 **2. Description of program integrity efforts of department.** A description of the
4 department's efforts under this section, including any efforts made in cooperation with
5 federal agency partners in investigating and prosecuting fraudulent claims in the
6 Temporary Assistance for Needy Families and food supplement programs, misuse of
7 public benefits instruments investigated pursuant to Title 17-A, section 905-C and vendor
8 and retailer fraud, including:

9 A. The number of staff investigating cases;

10 B. The number of cases opened, investigated and disposed of;

11 C. The sources of the cases opened;

12 D. The dispositions of the cases closed;

13 E. The number and amount of fraudulent overpayments recovered and fines or
14 penalties actually imposed, expressed in absolute dollar values and as percentages of
15 all funds spent in each program;

16 F. The amount of recoveries of fraudulent claims reclaimed by the Federal
17 Government;

18 G. All costs associated with all activities related to discovering, investigating and
19 prosecuting cases in which fraud was alleged, whether or not fraud was determined to
20 exist, for each program, both in absolute dollar values and as percentages of each
21 program;

22 H. The average length of time to recover fraudulent overpayments and fines or
23 penalties imposed from the time cases are opened until the time overpayments and
24 fines or penalties are repaid in full;

25 I. The amount of fraudulent overpayments determined as uncollectible; and

26 J. The amount of fraudulent overpayments recovered by type of offender;

27 **3. Referrals to Attorney General.** The status of cases referred to the Attorney
28 General's health care crimes or other unit or other law enforcement entities and the
29 number and disposition of those cases and the amount of overpayments recovered, all
30 detailed on a per case basis;

31 **4. Performance and activities of vendor, contractor or other program integrity**
32 **unit used by the department.** If the department uses a vendor, contractor or other
33 program integrity unit to assist in the identification and recovery of overpayments, a
34 description of the performance and activities of the vendor, contractor or other program
35 integrity unit used by the department. The report must include what the scope of the
36 vendor's, contractor's or other program integrity unit's activity is, what payments have
37 been made to the vendor, contractor or other program integrity unit, how many cases have
38 been opened, how many overpayments have been recovered and any other benefits from
39 the vendor's, contractor's or other program integrity unit's involvement;

