

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 407

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H.P. 316

House of Representatives, January 29, 2019

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### **An Act To Promote Universal Health Care, Including Dental, Vision and Hearing Care**

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Reference to the Committee on Health Coverage, Insurance and Financial Services  
suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BROOKS of Lewiston.  
Cosponsored by Senator BELLOWS of Kennebec and  
Representative: MELARAGNO of Auburn.

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

2 **PART A**

3 **Sec. A-1. 5 MRSA §12004-G, sub-§14-I** is enacted to read:

4 **14-I.**

5 Health Care            Healthy Maine            Expenses Only            24-A MRSA §7504  
6                                    Board

7 **Sec. A-2. 24-A MRSA c. 95** is enacted to read:

8 **CHAPTER 95**

9 **HEALTHY MAINE ACT**

10 **§7501. Short title**

11 This chapter may be known and cited as "the Healthy Maine Act."

12 **§7502. Definitions**

13 As used in this chapter, unless the context otherwise indicates, the following terms  
14 have the following meanings.

15 **1. Beneficiary.** "Beneficiary" means an individual whose primary residence is in the  
16 State.

17 **2. Board.** "Board" means the board of trustees of Healthy Maine.

18 **3. Children's health insurance program.** "Children's health insurance program"  
19 means the children's health benefit plan established in Title 22, section 3174-T.

20 **4. Healthy Maine.** "Healthy Maine" means the body created in section 7503.

21 **5. MaineCare.** "MaineCare" means the medical assistance program authorized in  
22 Title XIX of the federal Social Security Act, as amended, and administered under Title  
23 22, chapter 855.

24 **6. Provider.** "Provider" means a health care professional licensed by the State and  
25 includes individuals and hospitals and other health care facilities licensed or certified by  
26 the State. "Provider" includes an individual or entity that provides services, medical  
27 interventions, pharmaceuticals or equipment used to treat beneficiaries.

28 **§7503. Healthy Maine; establishment; governance**

29 Healthy Maine is created as a body corporate and politic and a public instrumentality  
30 of the State to finance health care services for residents of the State, to administer state  
31 and federal health care funds and to institute fiscally sound payment policies that improve  
32 and maintain high standards for value, quality and healthy outcomes for all beneficiaries.

1           **§7504. Board of trustees of Healthy Maine**

2           **1. Establishment.** The board of trustees of Healthy Maine is established to oversee  
3 the operations of Healthy Maine.

4           **2. Terms.** Members of the board serve 4-year terms, and members may serve a  
5 maximum of 3 consecutive 4-year terms. Members reaching the end of their terms may  
6 serve until replacements are named.

7           **3. Removal of member.** A member of the board may be removed for cause by a  
8 majority vote of the other members.

9           **4. Duties of the board.** The board shall:

10           A. Adopt bylaws, procedures, rules and policies, and ratify, amend or reject those  
11 bylaws, procedures, rules and policies adopted by the board;

12           B. Hire staff to administer the operations of Healthy Maine, including a chief  
13 executive officer, a chief financial officer and a chief medical officer;

14           C. Establish a central purchasing authority responsible for negotiating favorable  
15 prices for prescription drugs, medical equipment and other products and services  
16 required by Healthy Maine;

17           D. Provide funds to the superintendent for the operation of separate ombudsman  
18 offices for beneficiaries and providers, each of which must have the capacity to  
19 investigate and respond to inquiries and complaints and make recommendations to  
20 the board. Funding provided pursuant to this paragraph must be sufficient to allow  
21 the timely completion of all investigations;

22           E. Establish and fund an office for the investigation and prevention of fraud. The  
23 office may bring civil actions in the name of Healthy Maine to recover any money or  
24 the value of any benefits obtained by fraud or mistake and may refer fraudulent  
25 conduct to a district attorney for criminal prosecution;

26           F. Establish procedures for managing surplus funding by maintaining necessary  
27 operating reserves, increasing benefits or issuing refunds to members;

28           G. Establish procedures for ensuring financial sustainability by adjusting payments  
29 and benefits;

30           H. Adopt rules for independent annual performance and financial audits;

31           I. Adopt rules that protect beneficiary confidentiality while allowing for publicly  
32 available research of Healthy Maine's databases;

33           J. Adopt rules to ensure transparency in its operations and decision making. The  
34 rules must be at least as strict as the requirements in the laws governing freedom of  
35 access set forth in Title 1, chapter 13;

36           K. Approve and make publicly available an annual budget;

37           L. Facilitate creation of efficient medical records and billing records systems that:

38                   (1) Can be easily accessed by providers and beneficiaries;

- 1                   (2) Allow Healthy Maine to maintain a central database of medical records  
2                   suitable for management and cross-sectional and longitudinal research purposes;  
3                   (3) Ensure the confidentiality of beneficiaries' medical records in compliance  
4                   with all federal and state health care laws, regulations and rules concerning the  
5                   confidentiality of patient medical records; and  
6                   (4) Are easily portable to and interoperable with all other medical records  
7                   systems in use throughout the State;

8                   M. Administer all state funds for health care services provided to beneficiaries;

9                   N. Establish policies and procedures to pay benefits for health care services rendered  
10                  to a beneficiary who is temporarily living or traveling in another state; and

11                  O. Establish an appeals procedure that allows beneficiaries and providers to  
12                  challenge coverage and payment decisions. Final action on an appeal is subject to  
13                  judicial review according to state law for the review of final agency actions.

14                  **5. Authority of the board.** The board may:

15                  A. Authorize reasonable compensation and expense reimbursement for members of  
16                  the board;

17                  B. Seek waivers from state and federal laws, rules and regulations;

18                  C. Seek and accept gifts, grants and donations on behalf of Healthy Maine;

19                  D. Adopt rules as necessary for the proper administration and enforcement of this  
20                  chapter; and

21                  E. Exercise other powers necessary and proper to fulfill Healthy Maine's  
22                  responsibilities.

23                  **§7505. Health care services**

24                  **1. Required services.** Healthy Maine shall contract with providers to pay for health  
25                  care services to beneficiaries, which must include:

26                  A. Ambulatory patient services, including primary and specialty care;

27                  B. Hospitalization;

28                  C. Prescription drugs and durable medical equipment;

29                  D. Mental health and substance use disorder services, including behavioral health  
30                  treatment;

31                  E. Emergency and urgent care;

32                  F. Preventive and wellness services and chronic disease management;

33                  G. Rehabilitative and habilitative services and devices;

34                  H. Pediatric services, including oral, vision and hearing care;

35                  I. Laboratory services;

36                  J. Maternity and newborn care;

1           K. Palliative and end-of-life care; and

2           L. Dental, vision and hearing care.

3           **2. Additional services.** The board may authorize payment for services not specified  
4 in subsection 1.

5           **3. Healthy Maine responsible for payment.** Healthy Maine shall pay for health  
6 care services to beneficiaries in accordance with this subsection.

7           A. Healthy Maine shall pay for health care services to beneficiaries regardless of the  
8 cause of their injuries or illnesses.

9           B. Beginning July 1, 2022, Healthy Maine shall assume responsibility for payment  
10 of all reasonable and necessary medical expenses incurred by workers who suffer  
11 injuries or illnesses arising out of and in the course of their employment and whose  
12 employers are required under the Maine Workers' Compensation Act of 1992 to  
13 provide workers' compensation insurance for their employees. Workers suffering  
14 from injuries or illnesses arising out of and in the course of their employment in  
15 accordance with this paragraph are entitled to the same benefits and have the same  
16 rights and responsibilities as other beneficiaries.

17           C. For individuals eligible for MaineCare, the children's health insurance program  
18 and any other federal health care programs to be administered by Healthy Maine, the  
19 benefit package under Healthy Maine must include:

20                   (1) The benefits required by federal law;

21                   (2) Any optional MaineCare benefits authorized under state law or services  
22 covered under the children's health insurance program for which these individuals  
23 are eligible; and

24                   (3) Any additional benefits provided in Healthy Maine's benefit package.

25           D. An individual who loses eligibility for state or federal benefits under MaineCare  
26 or the children's health insurance program must receive the same benefits as any other  
27 beneficiary of Healthy Maine.

28           **4. Deductibles prohibited.** Healthy Maine may not charge deductibles to  
29 beneficiaries.

30           **5. Waiver of copayments; primary and preventive care services.** The board shall  
31 adopt rules for waiving copayments when copayments will cause financial hardship for a  
32 beneficiary. The board may not require copayments for designated primary and  
33 preventive care services.

34           **6. Approval required.** A provider may not require a beneficiary to make a  
35 copayment or submit to any other cost-sharing arrangement without Healthy Maine's  
36 approval.

37           **7. Choice of provider.** Healthy Maine shall allow beneficiaries to choose their own  
38 primary care providers.

1 8. Access to services. Healthy Maine may provide funding and other support to  
2 improve access to health care services for all beneficiaries regardless of where they live  
3 in the State and may provide funding and other support for statewide access to emergency  
4 and trauma care services.

5 **§7506. Healthy Maine secondary payor; state health plan; subrogation rights**

6 1. Secondary payor. Healthy Maine serves as a secondary payor to any health  
7 insurance plan in which a beneficiary may be responsible for a beneficiary's health care  
8 expenses. The total of Healthy Maine's payment and all other payments may not exceed  
9 the amount that Healthy Maine would pay if it were the only payor.

10 2. State health plan. Healthy Maine serves as a state health plan that pays for  
11 designated supplemental health care services for Medicare beneficiaries, except that  
12 Healthy Maine may not pay for services:

13 A. That are covered by Medicare Parts A, B and D;

14 B. That are covered by a Medicare Advantage plan that a beneficiary has with an  
15 entity other than Healthy Maine; or

16 C. That would have been paid by Medicare Part B or D had the beneficiary  
17 purchased those optional Medicare coverages, unless:

18 (1) Healthy Maine has an agreement with the federal Department of Health and  
19 Human Services, Centers for Medicare and Medicaid Services that requires it to  
20 pay for services that would have been paid under Medicare Part B or D; or

21 (2) Healthy Maine offers a Medicare Advantage plan and the beneficiary  
22 voluntarily enrolls in that plan.

23 3. Rights of subrogation. Healthy Maine has full rights of subrogation, ahead of the  
24 rights of a workers' compensation or other insurer or health care plan, including the right  
25 to bring an independent lawsuit or to intervene in a lawsuit filed by a beneficiary, in order  
26 to recover health care costs from collateral sources for which the beneficiary has a right  
27 of action for compensation against the person or entity that caused the beneficiary's  
28 illness or injury. Healthy Maine may assert a lien against any proceeds recovered by the  
29 beneficiary.

30 Healthy Maine may recover health care payments from any other collateral source, such  
31 as a health insurance plan, health benefit plan or other payor that is primary to Healthy  
32 Maine.

33 **§7507. Effective date**

34 This chapter takes effect July 1, 2022.

35 **PART B**

36 **Sec. B-1. Transition.** The Department of Health and Human Services and any  
37 other affected department or agency of the State shall assist Healthy Maine in seeking all  
38 waivers, exemptions and agreements from State Government and the Federal

1 Government that are necessary to transfer health care funding from the Federal  
2 Government and from any state departments and agencies to Healthy Maine.

3 **Sec. B-2. Interim meetings; implementing legislation.** The joint standing  
4 committee of the Legislature having jurisdiction over health and human services matters  
5 and the joint standing committee of the Legislature having jurisdiction over insurance and  
6 financial services matters are authorized to jointly meet as needed during the 2019  
7 legislative interim to oversee planning and implementation related to the establishment of  
8 Healthy Maine. At these meetings, the Commissioner of Health and Human Services and  
9 the Superintendent of Insurance shall brief the committees on planning issues, progress,  
10 challenges and the timeline for implementation. The committees shall provide  
11 opportunities for health care consumers, providers and advocates to speak to the  
12 committees. The committees shall jointly submit legislation to the Second Regular  
13 Session of the 129th Legislature by January 15, 2020 to implement Part A of this Act.  
14 The committees shall include in the legislation provisions to:

- 15 1. Fund the operation of Healthy Maine;
- 16 2. Transfer responsibility for administering the MaineCare program and the  
17 children's health insurance program established in the Maine Revised Statutes, Title 22,  
18 section 3174-T from the Department of Health and Human Services to Healthy Maine;
- 19 3. Transfer responsibility for administering any other state or federal health care  
20 program to Healthy Maine;
- 21 4. Obtain all waivers, exemptions and agreements from State Government and the  
22 Federal Government that are necessary to transfer health care funding from the Federal  
23 Government and from any state departments and agencies to Healthy Maine;
- 24 5. Transfer to Healthy Maine all state and federal funds associated with programs for  
25 which Healthy Maine will assume responsibility;
- 26 6. Enable Healthy Maine to receive the appropriate federal fund contribution in lieu  
27 of the federal premium tax credits, cost-sharing subsidies and small business tax credits  
28 provided in the federal Patient Protection and Affordable Care Act or its successor acts;
- 29 7. Repeal or amend, as appropriate, those provisions of the Maine Workers'  
30 Compensation Act of 1992 and any other provisions of law that concern the provision of  
31 medical care for workers who suffer injuries or illnesses arising out of and in the course  
32 of their employment and for the payment of premiums for medical benefits, whether by  
33 employers or insurers covered under the laws governing workers' compensation or that  
34 otherwise conflict with Title 24-A, chapter 95;
- 35 8. Ensure that the State's expenditures for health care services, including the State's  
36 responsibility for providing matching funds for MaineCare and other federally supported  
37 health care programs, do not fall below the expenditure levels for health care services in  
38 the year preceding July 1, 2022;
- 39 9. Determine the process for selecting or electing the members of the board of  
40 trustees of Healthy Maine established in Title 24-A, section 7504; and



