

# MAINE STATE LEGISLATURE

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**HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 844, L.D. 1155, Bill, "An Act To Protect Patients and the Prudent Layperson Standard"

Amend the bill in section 1 in subsection 4-A in the 2nd line (page 1, line 4 in L.D.) by inserting after the following: "health condition" the following: 'including severe pain.'

Amend the bill in section 1 in subsection 4-A in paragraph A in subparagraph (2) in the first line (page 1, line 13 in L.D.) by inserting after the following: "function." the following: 'or'

Amend the bill in section 1 in subsection 4-A in paragraph A by striking out all of subparagraph (4) (page 1, line 15 in L.D.).

Amend the bill in section 1 in subsection 4-B in the last line (page 1, line 23 in L.D.) by striking out the following: "by a health care provider"

Amend the bill by striking out all of sections 2 and 3 and inserting the following:

'Sec. 2. 24-A MRSA §4304, sub-§5, as enacted by PL 1999, c. 742, §13, is amended to read:

**5. Emergency services.** When conducting utilization review or making a benefit determination for emergency services, a carrier shall provide benefits for emergency services consistent with the requirements of this subsection and any applicable bureau rule.

A. Before a carrier denies benefits or reduces payment for an emergency service based on a determination of the absence of an emergency medical condition or a determination that a lower level of care was needed, the carrier shall conduct a utilization review done by a board-certified emergency physician who is licensed in this State, including a review of the enrollee's medical record related to the emergency medical condition subject to dispute. If a carrier requests records related to a potential denial of or payment reduction for an enrollee's benefits when emergency services were furnished to an enrollee, a provider has an affirmative duty

**COMMITTEE AMENDMENT**

1 to respond to the carrier in a timely manner. This paragraph does not apply when a  
2 reduction in payment is made by a carrier based on a contractually agreed upon  
3 adjustment for health care service.

4 **Sec. 3. 24-A MRSA §4320-C**, as enacted by PL 2011, c. 364, §34, is amended to  
5 read:

6 **§4320-C. Emergency services**

7 If a carrier offering a health plan ~~subject to the requirements of the federal Affordable~~  
8 ~~Care Act~~ provides or covers any benefits with respect to services in an emergency  
9 ~~department of a hospital facility or setting~~, the plan must cover emergency services in  
10 ~~accordance with the requirements of the federal Affordable Care Act, including~~  
11 ~~requirements that emergency services be covered without prior authorization and that~~  
12 ~~cost-sharing.~~ Cost-sharing requirements, expressed as a copayment amount or  
13 coinsurance rate, for out-of-network services are the same as requirements that would  
14 apply if such services were provided in network. A carrier offering a health plan in this  
15 State shall also comply with the requirements of section 4304, subsection 5.

16 **Sec. 4. Rulemaking.** Notwithstanding the Maine Revised Statutes, Title 24-A,  
17 section 4309, any rules adopted by the Department of Professional and Financial  
18 Regulation, Bureau of Insurance to amend rule Chapter 850: Health Plan Accountability  
19 as necessary to conform to this Act are routine technical rules as defined in Title 5,  
20 chapter 375, subchapter 2-A.'

21 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
22 section number to read consecutively.

23 **SUMMARY**

24 This amendment makes several changes to the bill.

25 1. It removes the reference to inadequately controlled pain and uses the phrase  
26 "severe pain" to maintain consistency with the definition used in the federal Patient  
27 Protection and Affordable Care Act.

28 2. It clarifies the definition of "emergency service" so that it applies to services  
29 provided in an emergency setting or facility and makes other changes to maintain  
30 consistent language within the definition.

31 3. It removes the reference to prior authorization for emergency services in section 2  
32 of the bill because it is redundant with changes made in section 3.

33 4. It clarifies that before a carrier denies benefits or reduces payment for an  
34 emergency service based on a determination of the absence of an emergency medical  
35 condition or a determination that a lower level of care was needed, the carrier's utilization  
36 review must be done by a board-certified emergency physician who is licensed in this  
37 State and that the review must include a review of the enrollee's medical record related to  
38 the emergency medical condition subject to dispute.

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COMMITTEE AMENDMENT "A" to H.P. 844, L.D. 1155

- 1           5. It provides that any rules adopted by the Department of Professional and Financial
- 2 Regulation, Bureau of Insurance to amend current rules to conform to changes made in
- 3 this legislation are routine technical rules.

**COMMITTEE AMENDMENT**