

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 1970

S.P. 672

In Senate, January 8, 2020

An Act To Establish Electronic Visit Verification for In-home and Community-based Health Care Workers

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.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CLAXTON of Androscoggin.
Cosponsored by Representative McCREIGHT of Harpswell and
Senators: MOORE of Washington, SANBORN, L. of Cumberland.

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

2 **Sec. 1. 22 MRSA §7310** is enacted to read:

3 **§7310. Electronic visit verification**

4 **1. Definitions.** For purposes of this section, the following terms have the following
5 meanings.

6 A. "Electronic visit verification" means the electronic documentation of the
7 performance of a service, including the type of service performed, the individual
8 receiving the service, the date of the service, the location of the service delivery, the
9 individual providing the service and the time that the service begins and ends.

10 B. "Electronic visit verification system" means a system that provides electronic visit
11 verification that complies with subsection 3 and the federal 21st Century Cures Act,
12 42 United States Code, Section 1396b(l).

13 C. "Provider" means an entity, agency, facility or individual who offers or plans to
14 offer any services.

15 D. "Service" means personal care services and home health care services as defined
16 in the federal 21st Century Cures Act, 42 United States Code, Section 1396b(l).

17 **2. Documentation; establishment.** The commissioner shall establish an electronic
18 visit verification system with respect to services, including implementation requirements
19 and standards for electronic visit verification that comply with the federal 21st Century
20 Cures Act, 42 United States Code, Section 1396b(l).

21 **3. Department requirements.** The department has the following duties and
22 responsibilities.

23 A. The department shall develop implementation requirements for electronic visit
24 verification systems. In developing implementation requirements, the commissioner
25 shall ensure that the requirements:

26 (1) Are minimally administratively and financially burdensome to the provider
27 and the direct care workers employed by the provider to deliver the service;

28 (2) Are minimally burdensome to the service recipient and the least disruptive to
29 the service recipients in receiving and maintaining allowed services;

30 (3) Consider existing best practices and existing use of electronic visit
31 verification;

32 (4) Are no more restrictive than applicable federal laws;

33 (5) Are effective methods for preventing fraud when balanced against the
34 requirements of subparagraphs (1) and (2);

35 (6) Are consistent with the department's policies related to MaineCare-covered
36 services, flexibility of service use and quality assurance; and

1 (7) Take into account the perspectives and experiences of direct care workers
2 and the providers that employ those workers and support them in delivering
3 services.

4 B. The commissioner shall make training available to providers and direct care
5 workers on the electronic visit verification system established pursuant to subsection
6 2 and the operational methods of complying with the system's requirements.

7 C. The commissioner shall establish baseline measurements related to preventing
8 fraud in the use of electronic visit verification and establish measures to determine
9 the effect of electronic visit verification requirements on the integrity of the program
10 under which services are provided.

11 D. The commissioner shall make the electronic visit verification system established
12 pursuant to subsection 2 available to providers but must allow the use of other
13 electronic visit verification systems as provided in subsection 4.

14 E. The commissioner may not reduce MaineCare reimbursement rates for providers
15 as a result of federal action to reduce the federal medical assistance percentage under
16 the federal 21st Century Cures Act, 42 United States Code, Section 1396b(l).

17 **4. Provider requirements.** A provider has the following duties and responsibilities.

18 A. A provider of services may select any electronic visit verification system that
19 meets the requirements established by the commissioner pursuant to subsection 3,
20 paragraph A.

21 B. An electronic visit verification system used by a provider must provide data to the
22 commissioner in a format and at a frequency to be established by the commissioner.

23 C. A provider shall implement an electronic visit verification system consistent with
24 this section by the date established by the United States Department of Health and
25 Human Services, Centers for Medicare and Medicaid Services for the State's
26 compliance with the federal 21st Century Cures Act, 42 United States Code, Section
27 1396b(l). If a good faith effort exemption is approved by the United States
28 Department of Health and Human Services, Centers for Medicare and Medicaid
29 Services, the date of required implementation by providers is the date of required
30 compliance under the exemption.

31 **SUMMARY**

32 This bill governs the implementation by the Commissioner of Health and Human
33 Services of the federal requirements for electronic visit verification with respect to
34 personal care services and home health care services for adults with long-term care needs
35 under the federal 21st Century Cures Act.