

MAINE STATE LEGISLATURE

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SAC
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L.D. 854

Date: 6-8-21

(Filing No. H-444)

HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 622, L.D. 854, "An Act To Ensure Continued School-based Services for Children with Disabilities"

Amend the bill by striking out the title and substituting the following:

'An Act To Ensure Continued Health-related Services for Children To Access Education'

Amend the bill by striking out the emergency preamble and inserting the following:

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

Whereas, health-related services provided to children to access education are critical to their success and must be available to the maximum extent possible under federal law; and

Whereas, the Legislature has an important role in ensuring that rules adopted by the Department of Health and Human Services result in health-related services being provided to children to access their education by providing additional review, and the review must be in place as soon as possible; and

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

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 34-B MRSA §1227 is enacted to read:

§1227. Health-related services for children from birth to 5 years of age to access education

1. Services required. The department shall provide reimbursement for health-related services that are required for children from birth to 5 years of age to access their education.

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1 Health-related services may include, but are not limited to, physical therapy, occupational
2 therapy, speech therapy, nursing services, social work services and behavioral health
3 services.

4 **2. Rulemaking.** The department shall adopt rules to implement this section. The rules
5 must establish the process for reimbursement under subsection 1 and be consistent with
6 federal law. Rules adopted pursuant to this subsection are routine technical rules pursuant
7 to Title 5, chapter 375, subchapter 2-A.

8 **Sec. 2. Initial rulemaking.** The Department of Health and Human Services shall
9 adopt a new rule to implement the requirements of the Maine Revised Statutes, Title 34-B,
10 section 1227 in accordance with this section.

11 **1. Major substantive rule.** Notwithstanding Title 34-B, section 1227, subsection 2,
12 rules adopted under this section are major substantive rules as defined in Title 5, chapter
13 375, subchapter 2-A and must be provisionally adopted and submitted to the Legislature
14 for review no later than January 13, 2023. After adoption of rules under this section, any
15 rules subsequently adopted by the Department of Health and Human Services to implement
16 the requirements of Title 34-B, section 1227 are routine technical rules as specified in
17 section 1227.

18 **2. Stakeholder groups.** The Department of Health and Human Services shall convene
19 stakeholder groups as necessary to discuss the proposed new major substantive rule under
20 subsection 1 prior to any rule-making activity initiated pursuant to Title 5, chapter 375,
21 subchapter 2-A. Stakeholder groups must include representatives of providers, advocates,
22 parents of children receiving services, the Child Development Services System under Title
23 20-A, section 7209, school administrative units and the Department of Education. The
24 Department of Health and Human Services shall also take into account the findings from
25 the independent review of the State's early childhood special education services being
26 carried out pursuant to Public Law 2019, chapter 343, Part VVVV.'

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

29 **SUMMARY**

30 This amendment replaces the bill. It clarifies that the services provided to children
31 from birth to 5 years of age are health-related rather than school-related and are necessary
32 to access education and removes the reference to developmental preschools. It requires the
33 Department of Health and Human Services to adopt a new rule to implement the
34 reimbursement of health-related services and specifies that the initial rule is major
35 substantive and the subsequent rules are routine technical. The major substantive rule must
36 be provisionally adopted and submitted to the Legislature for review no later than January
37 13, 2023. It requires stakeholder groups to be convened as necessary and prior to rule-
38 making activity.

39 **FISCAL NOTE REQUIRED**

40 (See attached)

Approved: 06/01/21 *mac*



130th MAINE LEGISLATURE

LD 854

LR 566(02)

An Act To Ensure Continued School-based Services for Children with Disabilities

Fiscal Note for Bill as Amended by Committee Amendment *ACH-444*
Committee: Health and Human Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services to adopt the changes in this bill and for the Department of Education to participate in the stakeholder group are expected to be minor and can be absorbed within existing budgeted resources.