

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1196

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H.P. 874

House of Representatives, March 22, 2021

### **An Act Regarding Targets for Health Plan Investments in Primary Care and Behavioral Health**

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Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative ZAGER of Portland.  
Cosponsored by Senator CLAXTON of Androscoggin and  
Representatives: CONNOR of Lewiston, Speaker FECTEAU of Biddeford, MEYER of Eliot,  
TEPLER of Topsham, Senators: President JACKSON of Aroostook, MOORE of Washington,  
SANBORN of Cumberland.

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

2 **Sec. 1. 5 MRSA §285, sub-§17** is enacted to read:

3 **17. Targets for investment in primary care and behavioral health care.** Beginning  
4 in plan year 2023, the State shall meet the following requirements related to targets for  
5 investment and spending in primary care and behavioral health care in the group health  
6 plan.

7 A. As used in this subsection, unless the context otherwise indicates, the following  
8 terms have the following meanings.

9 (1) "Behavioral health care" means mental health services, including community-  
10 based or peer support treatments for substance use disorder provided by licensed  
11 health care practitioners providing services within their scope of practice,  
12 regardless of practice setting.

13 "Behavioral health care" also includes provider loan repayments and services such  
14 as health information technology services, recruitment services and practice  
15 transformation services that support the practitioners described in this  
16 subparagraph in the delivery of behavioral health care services.

17 (2) "Primary care" means care provided by:

18 (a) Primary care practitioners, including family physicians, internists,  
19 pediatricians and geriatricians, except when practicing inpatient care or when  
20 practicing in an emergency department or stand-alone urgent care clinic;

21 (b) Obstetrician-gynecologists who assume responsibility for a patient's  
22 general primary care according to the gynecologic and nongynecologic  
23 standards of the United States Preventive Services Task Force or its successor  
24 organization except when practicing inpatient care or in an emergency  
25 department or stand-alone urgent care clinic;

26 (c) Physicians or surgeons of any specialty when providing general or  
27 reproductive care to special populations or in special circumstances, including,  
28 but not limited to, in clinics for persons who are homeless or indigent, federally  
29 qualified health centers, home-based palliative care, school-based health  
30 centers and general clinics focusing on traditionally marginalized populations  
31 such as indigenous or other people of color, immigrants, asylum-seekers,  
32 migrant workers, persons who are marginalized on the basis of gender identity  
33 or sexual orientation, victims of human trafficking, incarcerated individuals  
34 and victims of declared natural or human-caused disasters; and

35 (d) Advanced practice clinicians providing the services described in divisions  
36 (a) to (c).

37 "Primary care" also includes provider loan repayments and services such as health  
38 information technology services, recruitment services and practice transformation  
39 services that support the practitioners described in this subparagraph in the delivery  
40 of primary care services.

41 B. Targets for investment and spending by the State in the group health plan for  
42 primary care and behavioral health care are established as follows.

1           (1) For plan year 2023, the group health plan shall determine its baseline  
2           percentage of combined spending on primary care and behavioral health care based  
3           on claims data reported for plan year 2019 and report that percentage to the  
4           Superintendent of Insurance by January 1, 2022. The superintendent shall establish  
5           the median percentage for all health insurance carriers for plan year 2023. In  
6           subsequent plan years, the superintendent shall recalculate the median so that plan  
7           year 2024 is based on claims data reported for calendar year 2023, plan year 2025  
8           is based on claims data reported for calendar year 2024 and plan year 2026 is based  
9           on claims data reported for calendar year 2025.

10           (2) Beginning in plan year 2023 and through plan year 2026, if the group health  
11           plan spends less than or equal to the median described in subparagraph (1) on  
12           primary care and behavioral health care, the group health plan shall increase its  
13           percentage spent on primary care and behavioral health care combined by at least  
14           2% the following plan year over the plan year referenced in subparagraph (1) plus  
15           an increase equal to the rate of increase each year in the Consumer Price Index for  
16           medical care services as reported by the United States Department of Labor,  
17           Bureau of Labor Statistics.

18           (3) Beginning in plan year 2023 and through plan year 2026, if the group health  
19           plan spends above the median described in subparagraph (1) on primary care and  
20           behavioral health care, the group health plan shall increase its percentage spent on  
21           primary care and behavioral health care combined by at least 1% the following  
22           plan year over the plan year referenced in subparagraph (1) plus an increase equal  
23           to the rate of increase each year in the Consumer Price Index for medical care  
24           services as reported by the United States Department of Labor, Bureau of Labor  
25           Statistics.

26           (4) The Superintendent of Insurance shall recalculate the median for each plan  
27           year based on the reference plan year described in subparagraph (1). The  
28           requirements of subparagraphs (2) and (3) must be adjusted each plan year based  
29           on the group health plan's updated percentage spent on primary care and behavioral  
30           health care combined.

31           (5) The group health plan may demonstrate that the targets required by this  
32           subsection are met by averaging its increases in spending on primary care and  
33           behavioral health care combined over more than one plan year as long as the total  
34           increases required pursuant to this subsection through plan year 2026 are met each  
35           year.

36           (6) For plan year 2027 and each plan year thereafter, the group health plan shall  
37           maintain, at a minimum, the total combined spending on primary care and  
38           behavioral health care required pursuant to this section for plan year 2026.

39           The group health plan shall meet the targets required in this paragraph without  
40           increasing spending on total health expenditures. The group health plan may also meet  
41           the targets required in this paragraph by making supplemental payments focused on  
42           primary care and behavioral health care.

43           Sec. 2. 22 MRSA §3173-J is enacted to read:

44           **§3173-J. Targets for investment in primary care and behavioral health care**

1 Beginning in fiscal year 2023, the department shall meet the following requirements  
2 related to targets for investment and spending in primary care and behavioral health care  
3 in the MaineCare program.

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5 following terms have the following meanings.

6 A. "Behavioral health care" means mental health services, including community-based  
7 or peer support treatments for substance use disorder provided by licensed health care  
8 practitioners providing services within their scope of practice, regardless of practice  
9 setting.

10 "Behavioral health care" also includes provider loan repayments and services such as  
11 health information technology services, recruitment services and practice  
12 transformation services that support the practitioners described in this paragraph in the  
13 delivery of behavioral health care services.

14 **B. "Primary care" means care provided by:**

15 (1) Primary care practitioners, including family physicians, internists,  
16 pediatricians and geriatricians, except when practicing inpatient care or when  
17 practicing in an emergency department or stand-alone urgent care clinic;

18 (2) Obstetrician-gynecologists who assume responsibility for a patient's general  
19 primary care according to the gynecologic and nongynecologic standards of the  
20 United States Preventive Services Task Force or its successor organization except  
21 when practicing inpatient care or in an emergency department or stand-alone  
22 urgent care clinic;

23 (3) Physicians or surgeons of any specialty when providing general or  
24 reproductive care to special populations or in special circumstances, including, but  
25 not limited to, in clinics for persons who are homeless or indigent, federally  
26 qualified health centers, home-based palliative care, school-based health centers  
27 and general clinics focusing on traditionally marginalized populations such as  
28 indigenous or other people of color, immigrants, asylum-seekers, migrant workers,  
29 persons who are marginalized on the basis of gender identity or sexual orientation,  
30 victims of human trafficking, incarcerated individuals and victims of declared  
31 natural or human-caused disasters; and

32 (4) Advanced practice clinicians providing the services described in  
33 subparagraphs (1) to (3).

34 "Primary care" also includes provider loan repayments and services such as health  
35 information technology services, recruitment services and practice transformation  
36 services that support the practitioners described in this paragraph in the delivery of  
37 primary care services.

38 **2. Targets.** Targets for investment and spending by the department in primary care  
39 and behavioral health care are established as follows.

40 A. For fiscal year 2023, the department shall determine its baseline percentage of  
41 combined spending on primary care and behavioral health care based on claims data  
42 reported for fiscal year 2019 and report that percentage to the Superintendent of  
43 Insurance by January 1, 2022. The superintendent shall establish the median

1 percentage for all health insurance carriers for plan year 2023. In subsequent plan  
2 years, the superintendent shall recalculate the median so that plan year 2024 is based  
3 on claims data reported for calendar year 2023, plan year 2025 is based on claims data  
4 reported for calendar year 2024 and plan year 2026 is based on claims data reported  
5 for calendar year 2025.

6 B. Beginning in fiscal year 2023 and through fiscal year 2026, if the MaineCare  
7 program spends less than or equal to the median for all health insurance carriers  
8 described in paragraph A on primary care and behavioral health care, the department  
9 shall increase its percentage spent on primary health care and behavioral health care  
10 combined by at least 2% the following fiscal year over the fiscal year referenced in  
11 paragraph B plus an increase equal to the rate of increase each year in the Consumer  
12 Price Index for medical care services as reported by the United States Department of  
13 Labor, Bureau of Labor Statistics.

14 C. Beginning in fiscal year 2023 and through fiscal year 2026, if the MaineCare  
15 program spends above the median described in paragraph A on primary care and  
16 behavioral health care, the department shall increase its percentage spent on primary  
17 health care and behavioral health care combined by at least 1% the following fiscal  
18 year over the fiscal year referenced in paragraph B plus an increase equal to the rate of  
19 increase each year in the Consumer Price Index for medical care services as reported  
20 by the United States Department of Labor, Bureau of Labor Statistics.

21 D. The Superintendent of Insurance shall recalculate the median for each fiscal year  
22 based on the reference fiscal year described in paragraph A. The requirements of  
23 paragraphs B and C must be adjusted each fiscal year based on the MaineCare  
24 program's updated percentage spent on primary care and behavioral health care  
25 combined.

26 E. The department may demonstrate that the targets required by this subsection are  
27 met by averaging its increases in spending on primary care and behavioral health care  
28 combined over more than one fiscal year as long as the total increases required pursuant  
29 to this subsection through fiscal year 2027 are met.

30 F. For fiscal year 2027 and each fiscal year thereafter, the department shall maintain,  
31 at a minimum, the total combined spending on primary care and behavioral health care  
32 required pursuant to this section for fiscal year 2026.

33 The department shall meet the targets required in this subsection without increasing  
34 spending on total health expenditures. The department may also meet the targets required  
35 in this subsection by making supplemental payments focused on primary care and  
36 behavioral health care.

37 **Sec. 3. 24-A MRSA §2303, sub-§1, ¶B,** as enacted by PL 1969, c. 132, §1, is  
38 amended to read:

39 B. Rates shall may not be excessive, inadequate or unfairly discriminatory and, in the  
40 case of health insurance rates beginning for plan year 2023, must comply with the  
41 requirements of section 4319-B.

42 **Sec. 4. 24-A MRSA §4319-B** is enacted to read:

43 **§4319-B. Targets for investment in primary care and behavioral health**

1 Beginning in plan year 2023, carriers in the large group, small group and individual  
2 markets shall meet the following requirements related to targets for investment and  
3 spending in primary care and behavioral health care.

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5 following terms have the following meanings.

6 A. "Behavioral health care" means mental health services, including community-based  
7 or peer support treatments for substance use disorder provided by licensed healthcare  
8 practitioners providing services within their scope of practice, regardless of practice  
9 setting.

10 "Behavioral health care" also includes provider loan repayments and services such as  
11 health information technology services, recruitment services and practice  
12 transformation services that support the practitioners described in this paragraph in the  
13 delivery of behavioral health care services.

14 B. "Primary care" means care provided by:

15 (1) Primary care practitioners, including family physicians, internists,  
16 pediatricians and geriatricians, except when practicing inpatient care, or when  
17 practicing in an emergency department or stand-alone urgent care clinic;

18 (2) Obstetrician-gynecologists who assume responsibility for a patient's general  
19 primary care according to the gynecologic and nongynecologic standards of the  
20 United States Preventive Services Task Force or its successor organization except  
21 when practicing inpatient care or in an emergency department or stand-alone  
22 urgent care clinic;

23 (3) Physicians or surgeons of any specialty when providing general or  
24 reproductive care to special populations or in special circumstances, including, but  
25 not limited to, in clinics for persons who are homeless or indigent, federally  
26 qualified health centers, home-based palliative care, school-based health centers  
27 and general clinics focusing on traditionally marginalized populations such as  
28 indigenous or other people of color, immigrants, asylum-seekers, migrant workers,  
29 persons who are marginalized on the basis of gender identity or sexual orientation,  
30 victims of human trafficking, incarcerated individuals and victims of declared  
31 natural or human-caused disasters; and

32 (4) Advanced practice clinicians providing the services described in  
33 subparagraphs (1) to (3).

34 "Primary care" also includes provider loan repayments and services such as health  
35 information technology services, recruitment services and practice transformation  
36 services that support the practitioners described in this paragraph in the delivery of  
37 primary care services.

38 **2. Targets.** Targets for investment and spending by a carrier in primary care and  
39 behavioral health care are established as follows.

40 A. For plan year 2023, each carrier shall determine its baseline percentage of combined  
41 spending on primary care and behavioral health care based on claims data reported for  
42 plan year 2019 and report that percentage to the superintendent. The superintendent  
43 shall establish the median percentage for all carriers for plan year 2023. In subsequent

1 plan years, the superintendent shall recalculate the median so that plan year 2024 is  
2 based on claims data reported for calendar year 2023, plan year 2025 is based on claims  
3 data reported for calendar year 2024 and plan year 2026 is based on claims data  
4 reported for calendar year 2025.

5 B. Beginning in plan year 2023 and through plan year 2026, if a carrier spends less  
6 than or equal to the median described in paragraph A on primary care and behavioral  
7 health care, the carrier shall increase its percentage spent on primary care and  
8 behavioral health care combined by at least 2% the following plan year over the plan  
9 year referenced in paragraph A plus an increase equal to the rate of increase each year  
10 in the Consumer Price Index for medical care services as reported by the United States  
11 Department of Labor, Bureau of Labor Statistics.

12 C. Beginning in plan year 2023 and through plan year 2026, if the carrier spends at or  
13 above the median described in paragraph A on primary care and behavioral health care,  
14 the carrier shall increase its percentage spent on primary care and behavioral health  
15 care combined by at least 1% the following plan year over the plan year referenced in  
16 paragraph A plus an increase equal to the rate of increase each year in the Consumer  
17 Price Index for medical care services as reported by the United States Department of  
18 Labor, Bureau of Labor Statistics.

19 D. The superintendent shall recalculate the median for each plan year based on the  
20 reference plan year described in paragraph A. The requirements of paragraphs B and  
21 C must be adjusted each year based on the carrier's updated percentage spent on  
22 primary care and behavioral health care combined.

23 E. A carrier may demonstrate that the targets required by the subsection are met by  
24 averaging its increases in spending on primary care and behavioral health care  
25 combined over more than one plan year as long as the total increases required pursuant  
26 to this subsection through plan year 2026 are met.

27 F. For plan year 2027 and each fiscal year thereafter, the carrier shall maintain, at a  
28 minimum, the total combined spending on primary care and behavioral health care  
29 required pursuant to this section for plan year 2026.

30 A carrier shall meet the targets required in this subsection by reducing avoidable health  
31 care spending without increasing spending on total health expenditures. A carrier may also  
32 meet the targets required in this subsection by making supplemental payments to providers  
33 focused on primary care and behavioral health care.

34 **3. Rate approval.** Beginning in plan year 2023, the superintendent may not approve  
35 any rate filed by a carrier unless the carrier demonstrates that the targets required by this  
36 section have been met. The superintendent may approve rates provisionally for one year,  
37 if the superintendent is satisfied with an action plan submitted by a carrier to meet the  
38 targets described in this section. As part of any rate filing, the superintendent may require  
39 a carrier to provide such additional information as necessary to determine compliance with  
40 this section.

## 41 **SUMMARY**

42 This bill requires health carriers to meet certain targets for investment and spending in  
43 primary care and behavioral health care beginning in plan year 2023 and through plan year



1 2026. Overall spending may not increase to meet the targets. The bill establishes a  
2 benchmark for combined spending in primary care and behavioral health care as a  
3 percentage of overall health spending. The benchmark is indexed to the median amount  
4 spent by carriers on primary care and behavioral health care for plan year 2019. The bill  
5 requires carriers to increase relative spending in these areas by at least 2% per year if  
6 spending is less than or equal to the median and at least 1% per year if spending is above  
7 the median. Beginning in plan year 2027, carriers are required to maintain, at a minimum,  
8 the total combined spending on primary care and behavioral health care achieved in plan  
9 year 2026. The bill prohibits the Superintendent of Insurance from approving health  
10 insurance rates filed by a carrier unless the carrier demonstrates that the targets have been  
11 met. The bill also authorizes a carrier to meet the spending targets by supplemental  
12 payments focused on primary care and behavioral health care.

13 The bill also requires the MaineCare program and the state employee health plan to  
14 meet the same targets beginning in 2023.