

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1787

S.P. 625

In Senate, December 9, 2021

**An Act To Improve the Quality and Affordability of Primary Health
Care Provided by Federally Qualified Health Centers**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 7, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 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 Senator: MOORE of Washington.

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

3 **Whereas,** current MaineCare reimbursement rates for services delivered by federally
4 qualified health centers are based on costs of providing services 20 years ago and have not
5 been adjusted sufficiently to keep pace with increases in the costs, intensity and scope of
6 services offered; and

7 **Whereas,** MaineCare reimbursement rates for services delivered by federally
8 qualified health centers are substantially lower than the rates paid to certain primary care
9 practices that offer fewer services and fewer programs designed to reduce the need for more
10 expensive specialty and acute care than federally qualified health centers; and

11 **Whereas,** the Department of Health and Human Services is currently engaged in a
12 process of radically revising its payment method for primary care services without
13 considering the current inadequacy of federally qualified health center rates or the fact that
14 federally qualified health centers are currently delivering many of the services and
15 programs that the department is seeking to encourage by reforming its payment system;
16 and

17 **Whereas,** the current design of the department’s proposed payment reforms, which it
18 intends to implement before the adjournment of the Second Regular Session of the 130th
19 Legislature, will reduce payments to many federally qualified health centers; and

20 **Whereas,** in order to preserve and improve the advanced primary care model
21 pioneered by federally qualified health centers in Maine, MaineCare payments for those
22 services must be increased in order to reflect the current costs of providing services before
23 the department establishes an alternative payment model for federally qualified health
24 centers; and

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

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

30 **Sec. 1. 22 MRSA §3174-V, first ¶,** as amended by PL 2003, c. 20, Pt. K, §11, is
31 further amended to read:

32 ~~Beginning in fiscal year 2003-04, the~~ The reimbursement requirements listed in
33 subsections 1 and 2 set forth in this section apply to payments for certain federally qualified
34 health centers as defined in 42 United States Code, Section 1395x, subsection(aa)(1993).

35 **Sec. 2. 22 MRSA §3174-V, sub-§3** is enacted to read:

36 **3. Reimbursement rates and adjustments.** Notwithstanding any provision of law to
37 the contrary, beginning July 1, 2021, total payments to each federally qualified health
38 center for services provided under the MaineCare program may not be less than the total
39 amount the federally qualified health center would have received in accordance with the
40 payment method in effect as of June 30, 2021, adjusted for inflation in accordance with the
41 United States Department of Health and Human Services, Centers for Medicare and
42 Medicaid Services, Medicare Economic Index as published in the Federal Register. For

1 purposes of this subsection, “payment method” means the method by which the department
2 determines how much to pay the federally qualified health center for services provided,
3 including, but not limited to, the prospective payment system set forth in 42 United States
4 Code, Section 1396a(bb)(3), payments calculated under the department’s health home
5 programs and payments calculated for primary care case management services.

6 **Sec. 3. 22 MRSA §3174-V, sub-§4** is enacted to read:

7 **4. Rebasing.** The department shall establish a federally qualified health center’s base
8 year beginning January 1, 2019 and in every subsequent calendar year the prospective
9 payment system set forth in 42 United States Code, Section 1396a(bb)(3) is in effect.
10 Rebasing under this subsection must include an adjustment to base year costs that reflects
11 the following:

12 A. The difference between the prospective payment system rate in the base year and
13 the actual reasonable costs incurred in that calendar year;

14 B. The amount determined in paragraph A adjusted for inflation in accordance with the
15 United States Department of Health and Human Services, Centers for Medicare and
16 Medicaid Services, Medicare Economic Index as published in the Federal Register;

17 C. Findings made by the department relating to the change in the scope of services
18 provided by the federally qualified health center that consider:

19 (1) The costs arising from changes in the type, intensity, duration or quantity of
20 services provided; and

21 (2) The costs arising from changes in the characteristics of the population receiving
22 a service that affects the cost of the service; and

23 D. Additional costs retroactive to the date that the cost increases were first incurred by
24 the federally qualified health center.

25 **Sec. 4. 22 MRSA §3174-V, sub-§5** is enacted to read:

26 **5. Alternative value-based payment.** The department may, subject to 42 United
27 States Code, Section 1396a(bb)(6) and any other requirements under federal law, develop
28 a value-based payment model to replace the prospective payment system set forth in 42
29 United States Code, Section 1396a(bb)(3). In developing a value-based payment model in
30 accordance with this subsection, the department shall consult with federally qualified
31 health centers in this State to the extent provided in 42 United States Code, Section
32 1396a(bb)(6).

33 **Sec. 5. 22 MRSA §3174-V, sub-§6** is enacted to read:

34 **6. Rulemaking.** The department may adopt rules to implement subsections 3 to 5.
35 Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5,
36 chapter 375, subchapter 2-A.

37 **Sec. 6. Retroactivity.** That section of this Act that enacts the Maine Revised
38 Statutes, Title 22, section 3174-V, subsection 3 applies retroactively to July 1, 2021. That
39 section of this Act that enacts Title 22, section 3174-V, subsection 4 applies retroactively
40 to January 1, 2019.

41 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
42 takes effect when approved.

SUMMARY

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This bill provides that:

1. Beginning July 1, 2021, the total MaineCare payments to a federally qualified health center may not be lower than the total amount the federally qualified health center would have received in accordance with the payment method in effect as of June 30, 2021, adjusted for inflation;
2. The rebasing of reimbursement rates must be based on a change in the scope of services provided by a federally qualified health center, actual costs incurred and other factors;
3. The Department of Health and Human Services may develop alternative value-based payment models in accordance with federal law; and
4. Rules adopted to implement this legislation are major substantive rules.