

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1736

H.P. 1115

House of Representatives, April 20, 2023

**An Act to Advance the National HIV/AIDS Strategy in Maine by
Broadening HIV Testing**

Reference to the Committee on Health Coverage, Insurance and Financial Services
suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative OSHER of Orono.
Cosponsored by Senator BALDACCI of Penobscot and
Representatives: CRAVEN of Lewiston, DHALAC of South Portland, GEIGER of Rockland,
JAVNER of Chester, MILLIKEN of Blue Hill, MOONEN of Portland, Senator: MOORE of
Washington.

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

2 **Sec. 1. 5 MRSA §19203-G** is enacted to read:

3 **§19203-G. HIV testing required**

4 **1. Testing for persons 13 years of age or older.** Subject to the consent and procedure
5 requirements of section 19203-A, subsection 1, an individual 13 years of age or older who
6 is receiving health care services in a hospital or urgent care facility or from a primary care
7 provider in an outpatient setting must be offered an HIV test if the individual has not been
8 under the regular care of a primary care provider unless the individual is being treated for
9 a life-threatening emergency. As used in this subsection, "primary care provider" means an
10 osteopathic or allopathic physician or physician assistant or nurse practitioner licensed
11 under Title 32 who provides health care in a primary care setting.

12 **2. Testing in conjunction with testing for possible sexually transmitted diseases**
13 **and infections.** Subject to the consent and procedure requirements of section 19203-A,
14 subsection 1, a health care provider shall include an HIV test in the standard set of medical
15 tests performed on an individual with a possible sexually transmitted disease or infection.
16 If an individual declines to be tested for HIV pursuant to this subsection, the health care
17 provider shall document the individual's decision in the individual's medical record.

18 **Sec. 2. 24-A MRSA §4317-D**, as enacted by PL 2021, c. 265, §4, is amended to
19 read:

20 **§4317-D. Coverage of HIV prevention drugs and HIV testing**

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

23 A. "CDC guidelines" means guidelines related to the nonoccupational exposure to
24 potential HIV infection, or any subsequent guidelines, published by the federal
25 Department of Health and Human Services, Centers for Disease Control and
26 Prevention.

27 B. "HIV prevention drug" means a preexposure prophylaxis drug, post-exposure
28 prophylaxis drug or other drug approved for the prevention of HIV infection by the
29 federal Food and Drug Administration.

30 B-1. "HIV test" has the same meaning as in Title 5, section 19201, subsection 4-A.

31 C. "Post-exposure prophylaxis drug" means a drug or drug combination that meets the
32 clinical eligibility recommendations provided in CDC guidelines following potential
33 exposure to HIV infection.

34 D. "Preexposure prophylaxis drug" means a drug or drug combination that meets the
35 clinical eligibility recommendations provided in CDC guidelines to prevent HIV
36 infection.

37 **2. Coverage required for HIV prevention drugs.** A carrier offering a health plan in
38 this State shall provide coverage for an HIV prevention drug that has been prescribed by a
39 provider. Coverage under this section is subject to the following.

40 A. If the federal Food and Drug Administration has approved one or more HIV
41 prevention drugs that use the same method of administration, a carrier is not required

1 to cover all approved drugs as long as the carrier covers at least one approved drug for
2 each method of administration with no out-of-pocket cost.

3 B. A carrier is not required to cover any preexposure prophylaxis drug or post-
4 exposure prophylaxis drug dispensed or administered by an out-of-network pharmacy
5 provider unless the enrollee's health plan provides an out-of-network pharmacy benefit.

6 C. A carrier may not prohibit, or permit a pharmacy benefits manager to prohibit, a
7 pharmacy provider from dispensing or administering any HIV prevention drugs.

8 **3. Limits on prior authorization and step therapy requirements.** Notwithstanding
9 any requirements in section 4304 or 4320-N to the contrary, a carrier may not subject any
10 HIV prevention drug to any prior authorization or step therapy requirement except as
11 provided in this subsection. If the federal Food and Drug Administration has approved one
12 or more methods of administering HIV prevention drugs, a carrier is not required to cover
13 all of the approved drugs without prior authorization or step therapy requirements as long
14 as the carrier covers at least one approved drug for each method of administration without
15 prior authorization or step therapy requirements. If prior authorization or step therapy
16 requirements are met for a particular enrollee with regard to a particular HIV prevention
17 drug, the carrier is required to cover that drug with no out-of-pocket cost to the enrollee.

18 **4. Coverage for laboratory testing related to HIV prevention drugs.** A carrier
19 offering a health plan in this State shall provide coverage with no out-of-pocket cost for
20 laboratory testing recommended by a provider related to the ongoing monitoring of an
21 enrollee who is taking an HIV prevention drug covered by this section.

22 **5. Coverage for annual HIV test and testing in conjunction with testing for**
23 **sexually transmitted diseases and infections.** A carrier offering a health plan in this State
24 shall provide coverage with no out-of-pocket cost for:

25 A. An annual HIV test for an enrollee 13 years of age or older; and

26 B. An HIV test done in conjunction with tests performed on an enrollee with a possible
27 sexually transmitted disease or infection as required by Title 5, section 19203-G,
28 subsection 2.

29 **Sec. 3. Application.** That section of this Act that amends the Maine Revised
30 Statutes, Title 24-A, section 4317-D applies to all policies, contracts and certificates
31 executed, delivered, issued for delivery, continued or renewed in this State on or after
32 January 1, 2024. For purposes of this Act, all contracts are deemed to be renewed no later
33 than the next yearly anniversary of the contract date.

34 SUMMARY

35 This bill makes the following changes to broaden HIV testing in the State.

36 1. It requires an individual 13 years of age or older who is receiving medical services
37 in a hospital or in an urgent care facility or from a primary care provider in an outpatient
38 office setting to be offered an HIV test if the individual has not been under regular care
39 from a primary care provider unless that individual is being treated for a life-threatening
40 emergency.

41 2. It requires a health care provider to include an HIV test in the standard set of medical
42 tests performed on an individual with a possible sexually transmitted disease or infection.

1 3. It requires health insurance carriers to provide coverage for annual HIV testing for
2 all individuals 13 years of age or older in health insurance policies and contracts beginning
3 January 1, 2024.