

MAINE STATE LEGISLATURE

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L D 1795

Date 6/15/23

(Filing No S-335)

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HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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Reproduced and distributed under the direction of the Secretary of the Senate

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STATE OF MAINE

6

SENATE

7

131ST LEGISLATURE

8

FIRST SPECIAL SESSION

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COMMITTEE AMENDMENT "A" to S P 720, L D 1795, "An Act to Protect Patients by Prohibiting Certain Medical Facility Fees"

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

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'An Act to Create Greater Transparency for Facility Fees Charged by Health Care Providers and to Establish the Task Force to Evaluate the Impact of Facility Fees on Patients'

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

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'Sec. 1. 22 MRSA §8712, sub-§2-A is enacted to read

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2-A Facility fees charged by health care providers. By January 1, 2024, and annually thereafter, the organization shall produce and post on its publicly accessible website a report on the payments for facility fees made by payors to the extent that payment information is already reported to the organization. The organization shall submit the report required by this subsection to the Office of Affordable Health Care established in Title 5, section 3122 and the joint standing committee of the Legislature having jurisdiction over health data reporting and health insurance matters. The joint standing committee may report out legislation based on the report to a first regular or second regular session of the Legislature, depending on the year in which the report is submitted.

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For the purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings

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A "Facility fee" means any fee charged or billed by a health care provider for outpatient services provided in a hospital-based facility or freestanding emergency facility that is intended to compensate the health care provider for the operational expenses of the health care provider, separate and distinct from a professional fee, and charged or billed regardless of how a health care service is provided.

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B "Health care provider" means a person, whether for profit or nonprofit, that furnishes bills or is paid for health care service delivery in the normal course of

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COMMITTEE AMENDMENT

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1 business "Health care provider" includes, but is not limited to, a health system,
2 hospital, hospital-based facility, freestanding emergency facility or urgent care clinic

3 **Sec. 2. Task force established.** The Task Force to Evaluate the Impact of Facility
4 Fees on Patients, referred to in this section as "the task force," is established as follows

5 **1. Appointments; composition.** Notwithstanding Joint Rule 353, the task force
6 consists of 8 voting members and 2 ex officio nonvoting members as follows

7 A Four members must be appointed by the President of the Senate as follows

8 (1) One member of the Senate,

9 (2) One member representing a statewide organization supporting the interests of
10 health care consumers,

11 (3) One member representing the interests of health insurance carriers, and

12 (4) One member with expertise, knowledge and background in health care policy,

13 B Four members must be appointed by the Speaker of the House of Representatives
14 as follows

15 (1) One member of the House of Representatives,

16 (2) One member representing a statewide organization of retired persons,

17 (3) One member representing a statewide organization of hospitals, and

18 (4) One member representing a hospital in the State, and

19 C Two ex officio nonvoting members as follows

20 (1) The Director of the Office of MaineCare Services within the Department of
21 Health and Human Services or the director's designee, and

22 (2) The Director of the Office of Affordable Health Care or the director's designee

23 **2. Chairs.** The member of the Senate is the Senate chair and the member of the House
24 of Representatives is the House chair of the task force Notwithstanding Joint Rule 353, the
25 chairs may appoint, as nonvoting members, individuals with expertise in health care policy,
26 health care financing or health care delivery Any additional members appointed pursuant
27 to this subsection are not entitled to compensation or reimbursement under subsection 5

28 **3. Appointments; convening.** All appointments must be made no later than 30 days
29 following the effective date of this Act The appointing authorities shall notify the
30 Executive Director of the Legislative Council once all appointments have been completed
31 After appointment of all members, the chairs shall call and convene the first meeting of the
32 task force If 30 days or more after the effective date of this Act a majority of but not all
33 appointments have been made, the chairs may request authority and the Legislative Council
34 may grant authority for the task force to meet and conduct its business

35 **4. Duties.** The task force shall

36 A Review the industry practices for charging facility fees, uses of the funds received
37 as facility fees and impacts on patients of paying facility fees charged by health care
38 providers,



1 B Review federal transparency requirements for hospitals and health insurance carriers
2 regarding cost of treatment, identify any gaps or redundancies between state laws and
3 federal laws and identify any problems with enforcement of those laws,

4 C Consider efforts in other states and by national organizations related to regulation
5 of, or minimization of, facility fees and the potential effects such efforts might have on
6 health care costs in this State, and

7 D Make recommendations for changes in laws or rules regarding facility fees and
8 medical cost transparency based on the information examined under this subsection

9 **5. Compensation.** The legislative members of the task force are entitled to receive the
10 legislative per diem, as set out in the Maine Revised Statutes, Title 3, section 2, and
11 reimbursement for travel and other necessary expenses related to their attendance at
12 authorized meetings of the task force Public members not otherwise compensated by their
13 employers or other entities that they represent are entitled to receive reimbursement of
14 necessary expenses and, upon a demonstration of financial hardship, a per diem equal to
15 the legislative per diem for their attendance at authorized meetings of the task force

16 **6. Quorum.** A quorum is a majority of the voting members of the task force, including
17 those members invited to participate who have accepted the invitation to participate

18 **7. Staffing.** The Legislative Council shall provide staff support for the task force To
19 the extent needed when the Legislature is in session, the Legislative Council may contract
20 for such staff support if sufficient funding is available

21 **8. Consultants; additional staff assistance.** The task force may solicit the services of
22 one or more outside consultants to assist the task force to the extent resources are available
23 Upon request, the Office of Affordable Health Care, the Department of Health and Human
24 Services, the Department of Professional and Financial Regulation, Bureau of Insurance
25 and the Maine Health Data Organization shall provide additional staffing assistance to the
26 task force to ensure the task force has the information necessary to fulfill their duties under
27 this section

28 **9. Reports.** The task force shall submit a report no later than December 6, 2023 that
29 includes its findings and recommendations, including suggested legislation, to the Joint
30 Standing Committee on Health Coverage, Insurance and Financial Services and the
31 committee may report out a bill based on the report to the Second Regular Session of the
32 131st Legislature

33 **10. Additional funding; sources** The task force may apply for and receive funds,
34 grants or contracts from public and private sources to support its activities under this
35 section

36 **11. Definition.** For purposes of this section, "facility fees" and "healthcare provider"
37 have the same meanings as in the Maine Revised Statutes, Title 22, section 8712,
38 subsection 2-A '

39 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
40 number to read consecutively

COMMITTEE AMENDMENT

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SUMMARY

This amendment replaces the bill and changes the title The amendment establishes the Task Force to Evaluate the Impact of Facility Fees on Patients The amendment also requires the Maine Health Data Organization to annually report on payments made by payors in this State for facility fees charged by health care providers

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 1795

LR 51(02)

An Act to Protect Patients by Prohibiting Certain Medical Facility Fees

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-335)
Committee: Health Coverage, Insurance and Financial Services
Fiscal Note Required: Yes

Fiscal Note

Legislative Cost/Study

Legislative Cost/Study

The general operating expenses of this study are projected to be \$1,650 in fiscal year 2023-24. The Legislature's proposed budget for the 2024-2025 biennium includes \$14,500 in each of fiscal years 2023-24 and 2024-25 for the costs of legislative studies, as well as \$2,234 in projected balances from fiscal year 2022-23 and \$36,777 of balances carried over from prior years for this purpose. Whether these amounts are sufficient to fund all studies will depend on the number of studies authorized by the Legislative Council and the Legislature. The additional costs of providing staffing assistance to the study during the interim can be absorbed utilizing existing budgeted staff resources.

Fiscal Detail and Notes

Additional costs to the Maine Health Data Organization for the bill's required annual reporting are assumed to be minor and can be absorbed within existing budgeted resources. Additional costs to the Office of Affordable Health Care and to the Department of Health and Human Services', Office of MaineCare Services to participate on the task force are assumed to be minor and can be absorbed within existing budgeted resources. Additional costs to the departments and agencies designated to provide staff assistance to the task force are assumed to be minor and can be absorbed within existing budgeted resources.