

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

under adoption assistance agreements from states that have entered into a compact with this State under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this State. All other children entitled to medical assistance, pursuant to adoption assistance agreements entered into by this State, shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

§4176. Federal participation

1. Federal payments and aid. Consistent with federal law, the department, in connection with the administration of this chapter and any compact pursuant to this chapter, shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, Titles IV-E and XIX of the United States Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the Federal Government pays some or all of the cost. The department shall apply for and administer all relevant federal aid, in accordance with law.

Effective July 25, 1984.

CHAPTER 722

H.P. 1481 - L.D. 1944

AN ACT to Assure Greater Independence
to the Certificate of Need Advisory Committee
and for Other Purposes.

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

22 MRSA §307, sub-§§2-A and 2-B, as enacted by PL 1981, c. 705, Pt. V, §25, are amended to read:

2-A. Certificate of Need Advisory Committee. There is established within the Department of Human Services a Certificate of Need Advisory Committee, which shall participate with the department in the public hearing process.

A. The committee shall be composed of 10 members, 9 of whom shall be appointed by the Governor. The Commissioner of Human Services shall

name his designee to serve as an ex officio non-voting ~~chairman~~ member of the committee. The 9 members appointed by the Governor shall be selected in accordance with the following requirements.

(1) Four members shall be appointed to represent the following.

(a) One member shall represent the hospitals.

(b) One member shall represent the nursing home industry.

(c) One member shall represent major 3rd-party payors.

(d) One member shall represent physicians.

In appointing these representatives, the Governor shall consider recommendations made by the Maine Hospital Association, the Maine Health Care Association, the Maine Medical Association, the Maine Osteopathic Association and other representative organizations; and

(2) Five public members shall be appointed as consumers of health care. One of these members shall be designated on an annual basis by the Governor as chairman of the committee. Neither the public members nor their spouses or children may, within 12 months preceding the appointment, have been affiliated with, employed by, or have had any professional affiliation with any health care facility or institution, health product manufacturer or corporation or insurer providing coverage for hospital or medical care, and provided that neither membership in or subscription to a service plan maintained by a nonprofit hospital and medical service organization, nor enrollment in a health maintenance organization, nor membership as a policyholder in a mutual insurer or coverage under such a policy, nor the purchase of or coverage under a policy issued by a stock insurer may disqualify a person from serving as a public member.

B. Appointed members of the committee shall serve for terms of 4 years. Members shall hold

office until the appointment and confirmation of their successors. Of the members first appointed by the Governor, the member representing hospitals and 2 public members shall hold office for 4 years, the member from the nursing home industry and one public member shall hold office for 3 years, the member from the insurance field and one public member shall hold office for 2 years and the physician and one public member shall hold office for one year.

C. Vacancies among appointed members shall be filled by appointment by the Governor for the unexpired term. A vacancy in the office of the chairman shall be filled by the Governor, who shall designate a new chairman for the balance of the member's term as chairman. The Governor may remove any appointed member who becomes disqualified by virtue of the requirements of paragraph A, or for neglect of any duty required by law, or for incompetency or dishonorable conduct.

D. Each appointed member of the committee shall receive a per diem allowance of \$25 for each day that he is actively engaged in performing the work of the committee and each member shall be reimbursed for the actual and necessary traveling and other expenses incurred in the discharge of his duties.

E. Five members of the committee shall constitute a quorum. Actions of the committee shall be by majority vote.

2-B. Public hearing. A public hearing shall be held during the course of a review by ~~either~~ the Certificate of Need Advisory Committee ~~or the Health Systems Agency, or both,~~ if requested by persons directly affected by the review pursuant to subsection 1. Nothing in this section may be construed to prevent the department from holding informational meetings with applicants and interested and affected persons prior to the conduct of the hearing. In the event no hearing has been requested prior to an informational meeting or receipt of the preliminary staff report, the applicant or any directly affected persons may request a hearing within 10 days of either circumstance, provided that the review period shall be extended by 60 days if such a hearing is requested. In the case of grouped applications, the extension shall apply to all competing applications.

A. The committee or agency shall provide notice of its hearings in accordance with the procedure described in subsection 1 .

B. Findings, recommendations, reports, analyses and related documents prepared by the staff of the agency shall be in final form and be made available to affected persons at least 5 business days prior to its hearings. The department shall make its preliminary staff report available to the committee and affected persons at least 5 business days prior to a public hearing conducted by the committee.

C. In a hearing conducted by the committee, any person shall have the right to be represented by counsel or to present oral or written arguments and evidence relevant to the matter which is the subject of the hearing. Any person directly affected by the matter may conduct reasonable questioning of persons who make relevant factual allegations.

D. The designated representative of the department on the Certificate of Need Advisory Committee chairman shall serve ~~ex-officio~~ as a ~~nonvoting~~ voting presiding officer and, in consultation with the ~~appointed~~ members of the committee, shall rule on the relevance of argument and evidence and make determinations as to reasonable questioning. ~~Appointed members~~ Members of the committee may conduct reasonable questioning in the course of a hearing.

E. The department or agency shall record all hearings and any subsequent proceedings of the committee with respect to the application in a form susceptible to transcription. The department shall transcribe the recording when necessary for the prosecution of an appeal.

F. During the first 7 business days following the close of a public hearing conducted by the committee interested or affected persons may submit written comments concerning the review under consideration. The department shall provide copies of comments submitted in that manner to all persons registered as affected persons and to appointed members of the committee. In reviews where no hearing is held, interested or affected persons may submit comments 10 days after the submission of the preliminary staff report, but no later than the 70th day of a 90-day review cycle or the 130th day of a 150-day review cycle.

G. In the event that circumstances require the department to obtain further information from any source or to otherwise contact registered af-

affected persons following the public hearing and submission of comments under paragraph F or, when no hearing is held, following the 80th day of a 90-day review cycle or the 140th day of a 150-day review cycle, the department shall:

- (1) Provide written notice to all registered affected persons who shall have at least 3 business days to respond; or
- (2) Convene a public meeting with reasonable notice with participation of the committee at its discretion and affording directly affected persons the opportunity to conduct reasonable questioning.

In either event, notwithstanding any other provision of this chapter, the time period in which a decision is required shall be extended 20 days. Any written comments shall be forwarded to the committee.

H. At its next meeting following the receipt of comments pursuant to paragraph F or G, or in the case of a public hearing pursuant to paragraph G, the committee shall make a recommendation of approval or disapproval with respect to the application or applications under consideration. The recommendation shall be determined by majority vote of the appointed members present and voting. Members of the committee may make additional oral comments or submit written comments, as they deem appropriate, with respect to the basis for their recommendations or their individual views. The committee recommendation and any accompanying comments shall be forwarded to the commissioner.

I. At the time the staff submits its final report to the commissioner, a copy of the report shall be sent to the applicant and a notification shall be sent to all registered affected persons. No further comments may be accepted.

J. There shall be no contact with respect to the application after a hearing commences between members of the committee or the department and affected parties or anyone acting on their behalf, except in accordance with the procedures set forth in this section.