

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

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communications and shall be excepted from the confidential requirements of this subsection.

See title page for effective date.

CHAPTER 386

S.P. 382 - L.D. 1018

An Act to Provide a Special Adjustment for Hospitals Having Unusually Low Financial Requirements per Case

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the financial requirements determined by the Maine Health Care Finance Commission for certain Maine hospitals result in noncapital financial requirements per case that are markedly less than the median for hospitals of comparable size; and

Whereas, some of those hospitals have expended substantially more than they are authorized to recover through charges to patients and require an increase in revenues in order to continue operating at current levels of expenditure; and

Whereas, it may, under some circumstances, serve the public interest to allow such an increase in revenues, if the hospital's financial requirements per case would still be substantially below the median; and

Whereas, current law does not allow the Maine Health Care Finance Commission to adjust financial requirements in recognition of the circumstances described above; and

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

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

Sec. 1. 22 MRS §396-D, sub-§9-B is enacted to read:

9-B. Special relief. In determining financial requirements for payment years beginning or deemed to begin on or after October 1, 1988, and before October 1, 1990, the commission may elect to make a special adjustment to provide relief to hospitals with unusually low noncapital financial requirements per case-mix adjusted admission, in accordance with the following provisions.

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

(1) "Final 3rd-year financial requirements" means a hospital's financial requirements at year end as determined by the commission for purposes of compliance and settlement determinations under section 396-I for the payment year commencing during the 3rd payment year cycle.

(2) "Financial requirements per case" means the inpatient portion of a hospital's final 3rd-year financial requirements, exclusive of capital allowances, hospital-based physician remuneration, base-year subsidies, and medical education costs, divided by the hospital's case-mix adjusted admissions for that year.

(3) "Third payment year cycle" means the period from October 1, 1986, through September 19, 1987.

(4) "Base-year subsidies" means that part of financial requirements resulting from the addition to base-year financial requirements, by commission rule, of elements designed to compensate hospitals for losses associated with operations, the costs of which are not otherwise included in financial requirements.

B. A hospital may receive an adjustment only if its financial requirements per case are less than 83% of the median financial requirements per case for hospitals of comparable size.

C. Any adjustment shall be limited to the lesser of:

(1) An amount calculated by first subtracting the hospital's financial requirements per case from 83% of the median financial requirements per case for hospitals of comparable size; multiplying that difference by the sum of the hospital's case-mix adjusted admissions and outpatient equivalent admissions for the payment year commencing in the 3rd-payment year cycle; and adjusting that product for inflation between the payment year commencing in the 3rd-payment year cycle and the payment year for which the adjustment is requested; or

(2) An increase in the hospital's financial requirements that will, in conjunction with any other adjustments to financial requirements that the hospital is entitled to receive for the same payment year, cause its noncapital financial requirements to equal its reasonably budgeted, noncapital operating expenses for the payment year.

D. The commission shall make an adjustment for all or part of the maximum amount permitted under paragraphs B and C, to the extent that the commission finds that relief is necessary to avoid significant

harm to the hospital's ability to provide services to the community, and that the adjustment would be in the public interest and whether it is necessary to avoid significant harm. In determining whether the adjustment is in the public interest and, if so, in what amount the adjustment shall be made, the commission shall consider the following factors, as well as any other matters pertinent to the findings and purposes set forth in section 381:

(1) The reasonableness of the rate at which the hospital's expenses have increased since the 4th payment year;

(2) The hospital's reasons for exceeding its currently approved level of financial requirements;

(3) The hospital's financial requirements, volume and case-mix as compared to those of other comparable hospitals;

(4) The hardship to the hospital in the absence of relief under this subsection;

(5) The impact on quality and accessibility of health care; and

(6) The effect on payors and purchasers of providing relief under this subsection.

E. No hospital may receive more than one adjustment under this subsection, nor shall any hospital be eligible for such an adjustment if the commission, after hearing, has made a final decision denying the adjustment. An adjustment under this subsection shall become part of payment year financial requirements for purposes of computing subsequent payment year financial requirements pursuant to section 396-C.

F. This subsection is repealed October 1, 1991.

Sec. 2. 22 MRSA §398, sub-§2, as amended by PL 1987, c. 51, §2, is further amended to read:

2. Interim adjustments. Upon application by a hospital, affiliated interest, payor or group of purchasers, for an interim adjustment to financial requirements permitted under section 396-D, or upon application by a payor or group of purchasers for a modification of its approved differential or of the apportionment of the gross patient service revenue, and after opportunity for hearing, a final order shall be promulgated within 120 days from the date a completed application was filed, except that the commission may extend the 120-day period by an additional 60 days with respect to an application for an adjustment under section 396-D, subsection 9-A or 9-B. Any proposed change shall take effect upon the date specified in the order. At any time during the period between the filing date and the commission's final decision on the request, the commission may extend provisional approval to any part of the request. This provisional approval shall be superseded by the commission's final

decision on the request. The commission may establish reasonable limits on the frequency of requests filed under this subsection.

Sec. 3. Findings. The Legislature finds the following.

1. Certain hospitals have financial requirements per case well below those of other hospitals of comparable size.

2. Some of the hospitals having relatively low financial requirements per case have, over a period of several years, experienced expense increases that have caused total costs to exceed substantially their total financial requirements as determined by the Maine Health Care Finance Commission.

3. The financial difficulties arising from the facts stated above may, for a few hospitals, be severe enough and sufficiently justified to require relief more rapid than that which will be afforded by phasing in a "standard component" of financial requirements over a 5-year period.

4. To allow a hospital to increase its financial requirements per case more rapidly than the annual amount of the contemplated standard component adjustment, a special adjustment should be provided.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 20, 1989.

CHAPTER 387

S.P. 358 - L.D. 959

An Act to Provide Dealership Protection to Farm Equipment and Machinery

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

29 MRSA c. 5, sub-c. VI is enacted to read:

SUBCHAPTER VI

FARM MACHINERY DEALERSHIPS

§481. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Current net price. "Current net price" means the price listed in the supplier's price list or catalog in effect at the time the dealer agreement is terminated, less any applicable discounts allowed.