

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

the motor vehicle that is currently registered and assigned regular registration plates. The named official may attach to any such motor vehicle one of the current registration plates issued under section 110 and one of the current special registration plates issued under this section. Any specially designed number plates issued to any of the named officials shall be is valid only during the term of office for which the registrant is elected. In case the office is for any cause vacated during said that term, such the special number plates and registration certificate shall must be immediately surrendered to the Secretary of State.

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

Effective April 23, 1991.

CHAPTER 41

H.P. 399 - L.D. 573

An Act to Expand the Availability of Automatic Liens to Certain Businesses

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

Sec. 1. 10 MRSA §3951, as amended by PL 1987, c. 63, §1, is repealed and the following enacted in its place:

§3951. Automatic lien

1. Lien established. A person, partnership or corporation engaged in one or more of the following activities has a lien on the item that the activity involves for a reasonable compensation for any labor or materials expended on that item:

A. Making, altering, repairing or cleaning any watch, clock, jewelry, electric motor, major and traffic appliance, small motor not to exceed 20 horsepower, radio, electronic equipment, musical instrument, furniture, photograph, artwork, sports equipment and photography equipment; and

B. Cleaning, repairing or pressing clothes.

2. Lien priority. A lien under this section takes precedence over all other claims and incumbrances.

3. Exemption from attachment. The item that is subject to a lien under this section is exempt from attachment or execution until the lien and the cost of enforcing it are satisfied.

Sec. 2. 10 MRSA §3952, as amended by PL 1987, c. 63, §2, is further amended to read:

§3952. Sale after 6 months

The ~~lien holder~~ lienholder shall retain such watch, clock, jewelry, clothes, electric motor, major and traffic appliance, small motor not to exceed 20 horsepower, radio and other electronic equipment and musical instrument any item subject to a lien under section 3951 for a period of 6 months, at the expiration of which time, if such the lien is not satisfied, he the lienholder may sell such watch, clock, jewelry, clothes, electric motor, major and traffic appliance, small motor not to exceed 20 horsepower, radio and other electronic equipment and musical instrument the item at public or private sale, after giving 30 days' notice in writing to the owner, specifying the amount due, describing the property item to be sold and informing him the owner that the payment of such the amount within 30 days shall entitle him entitles the owner to redeem such property the item. Such The notice may be given by mailing the same mail addressed to the owner's place of residence if known, or if the owner's place of residence is unknown, a copy of such the notice may be posted by the holder of such the lien in 2 public places in the town, village or city where the property item is held.

See title page for effective date.

CHAPTER 42

H.P. 1106 - L.D. 1614

An Act to Implement the Initial Recommendations of the Task Force to Evaluate and Revise the Maine Health Program

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

Whereas, the Task Force to Evaluate and Revise the Maine Health Program was charged with reporting to the Joint Standing Committee on Appropriations and Financial Affairs a finding as to whether there are currently sufficient controls, restrictions and requirements to ensure that the Maine Health Program will not expend state funds in excess of its \$6,550,000 supplemental appropriation for the remainder of fiscal year 1990-91; and

Whereas, the task force finds that this legislation is needed immediately to satisfy that charge; 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 MRSA §3189, sub-§2, ¶G is enacted to read:

G. "Work-related expense disregard" means the disregard applied to earned income of applicants or enrollees, and, in determining the eligibility of adults for May 1991 and June 1991, is \$90 per month plus actual dependent care expenses in an amount not to exceed \$200 per month per dependent under 2 years of age receiving dependent care and not to exceed \$175 per month per dependent 2 years of age or older receiving dependent care.

Sec. 2. 22 MRSA §3189, sub-§3, as amended by PL 1989, c. 875, Pt. E, §36, is further amended to read:

3. Eligibility. This subsection sets forth eligibility criteria for the program.

A. Except as provided in subsection 5 and in paragraph B of this subsection, the following persons are eligible to participate in the program and to receive benefits in accordance with this section:

- (1) Any person who is under ~~18~~ 20 years of age and whose household income is 125% or less of the federal poverty level;
- (2) Any person who is age ~~18~~ 20 or older and whose household income is 95% or less of the federal poverty level; and
- (3) Beginning July 1, 1992, any person who is age ~~18~~ 20 or older and whose household income is 100% or less of the federal poverty level.

B. Notwithstanding paragraph A, the following persons ~~shall~~ are not ~~be~~ eligible to participate in the program:

- (1) Persons eligible for the full scope of Maine medical assistance program benefits;
- (2) Persons who are confined to state correctional facilities, county jails or local or county detention centers or who reside in institutions operated by the Department of Mental Health and Mental Retardation; ~~and~~
- (3) Persons 18 and 19 years of age who may be considered part of the households of their parents in accordance with rules adopted by the department; and
- ~~(4)~~ (4) Persons who fail to meet other criteria established by this section.

C. The department shall promulgate rules governing the effective date of eligibility and the application process. These rules must provide that persons are not eligible for coverage earlier than the first day of the month in which they apply and no later than the date upon which they apply. The department shall provide for individuals to make preliminary application for

Maine Health Program benefits at the site of a provider and other sites as designated by the department. The date of this preliminary application is considered the filing date of an application for purposes of establishing the individual's first day of eligibility, as long as such preliminary application is received within a reasonable time, as determined by department rules.

D. The department shall adopt rules governing conditions of eligibility that must include the following conditions:

- (1) The applicant must be a citizen or a lawfully admitted alien;
- (2) The applicant must cooperate in obtaining medical benefits from a legally responsible parent; and
- (3) The applicant must furnish the department with a social security number or provide verification that application for such a number has been made.

Sec. 3. 22 MRSA §3189, sub-§5, 1A, as amended by PL 1989, c. 875, Pt. E, §37, is further amended to read:

A. The department, by rule adopted in accordance with subsection 9, shall determine the scope and amount of medical assistance to be provided to participants in the program provided that the rules meet the following criteria.

- (1) The scope and amount of medical assistance must be the same as the medical assistance received by persons eligible for Medicaid, except that pregnancy-related services and nursing home benefits and case management services covered under Medicaid may not be offered as services under the program and, further, during May 1991 and June 1991, coverage under this program for hospital inpatient stays may not exceed the cost of 3 consecutive days in general or psychiatric hospitals if the primary diagnosis at the time of admission is a mental disorder, including or diagnosis of alcohol or substance abuse.
- (2) Notwithstanding the requirements of this paragraph, if the department determines that available funds are inadequate to continue to provide the full scope and amount of medical assistance, the department, in accordance with paragraph G, may restrict the scope and amount of medical assistance to be provided to participants in the program by adoption of rules in accordance with subsection 9.
- (3) The medical assistance to be provided may not require participants with household income below 100% of the federal poverty level to make

out-of-pocket expenditures, such as requiring deductibles or copayments for any service covered, except to the extent out-of-pocket expenditures are required under state Medicaid rules. The department may study, in consultation with the committee, whether to require copayments from participants with household income above 100% of the federal poverty level. Copayments may be required of those persons only to the extent that the study finds that implementation of the proposed copayment will not significantly reduce access to necessary services, and will achieve appropriate reduction in the utilization of services and the cost of the program.

Sec. 4. 22 MRSA §3189, sub-§5, ¶B and C, as enacted by PL 1989, c. 588, Pt. A, §43, are amended to read:

B. The department, in consultation with the council, shall develop plans to ensure appropriate utilization of services. The department's consideration ~~shall~~ must include, but is not be limited to, preadmission screening, managed care, use of preferred providers and 2nd surgical opinions. In addition, the department may implement surveillance and utilization control review and quality control or management evaluation to the same extent such programs exist in the Medicaid program.

C. The department shall adopt rules in accordance with subsection 9, setting forth a sliding scale of premiums to be paid by persons eligible for the program provided that the rules ~~shall~~ meet the following criteria.

(1) The premium for a household whose household income does not exceed 100% of the federal poverty level ~~shall be~~ is zero.

(2) The premium for a household whose household income exceeds 100% of the federal poverty level ~~shall may~~ not exceed 3% of that household income.

The department may, by rule, reduce or waive premiums for persons below the age of ~~18~~ 20 years whose household income does not exceed 125% of the federal poverty level.

Sec. 5. 22 MRSA §3189, sub-§5, ¶G, as amended by PL 1991, c. 9, Pt. N, §8, is further amended to read:

G. Notwithstanding subsection 3, if at any time during the fiscal year the department determines that the funds available for the program are inadequate to continue the program pursuant to the requirements of subsection 3, the department, in accordance with this subsection and subsection 9, may take action to limit the program for the full or partial fiscal year for which the department determines funding is inadequate. The priority of making reductions is as follows:

(1) With regard to new applicants only, the income limit for persons aged ~~18~~ 20 or older may be reduced to such lower percentage of federal poverty level as the department determines appropriate;

(2) With regard to new applicants only, the income limits for all otherwise eligible persons may be reduced to such lower percentages of the federal poverty level as the department determines appropriate;

(3) With regard to all otherwise eligible persons, the department may restrict the scope and amount of medical assistance to be provided;

(4) With regard to new applicants only, no persons aged ~~18~~ 20 or older may be found eligible for the program; and

(5) No new applicants may be found eligible for the program. For the purposes of this paragraph, an individual who has been enrolled in the Maine Health Program and who is required to recertify eligibility or an individual who has been enrolled in the Maine Health Program and is for a period of time eligible for Medicaid is not a new applicant to the Maine Health Program.

Sixty days prior to the effective date of any proposed reduction of benefits or eligibility recommended pursuant to this paragraph, the department shall provide copies of the proposed rule together with a concise statement of the principal reason for the rule, including the balance remaining in the account for the program, an analysis of the proposed rule and the savings anticipated by the adoption of the proposed rule to the Governor and to each member of the joint standing committee of the Legislature having jurisdiction over insurance matters and appropriations matters.

Sec. 6. 22 MRSA §3189, sub-§6, ¶A and D, as enacted by PL 1989, c. 588, Pt. A, §43, are amended to read:

A. If the person is required to contribute toward the cost of the employer-supported plan, the person shall pay only the amount the person would be required to pay as an applicable premium to be covered by the program. The department shall promptly pay the remainder of the person's required contribution to the employer-supported plan to the person, the person's employer or directly to the insurer. If the person's contribution is smaller than the applicable premium, the person ~~shall be~~ is required to make the contribution and pay the difference between the contribution and the applicable premium to the department.

D. The department shall adopt rules in accordance with subsection 9 to implement this subsection. The department may adopt rules reducing or waiving the

requirements of this subsection for persons under the age of ~~18~~ 20 when the person's parents or other responsible adults are not participants in the program.

Sec. 7. 22 MRSA §3189, sub-§§7 and 8, as enacted by PL 1989, c. 588, Pt. A, §43, are amended to read:

7. Coordination of benefits. Any participant who is covered by a health insurance policy including an employer-supported plan, in addition to coverage under the program, shall file with the department the name, address and group policy number of the employer-supported ~~that policy or plan~~. The department may request, from the insurer that provides the group policy, information sufficient to permit the department to coordinate benefits between the program and the ~~employer-supported policy or plan~~. An insurer shall respond to the request from the department within 30 days. The department may also require the employer or the insurer to provide notice to the department of any changes in coverage and to provide notice to the department of any termination of the policy. The program ~~shall be~~ is a secondary payor to all other payors to the extent permitted by federal and state law.

The department shall adopt rules in accordance with subsection 9 to implement this subsection.

8. Transition period for participants losing eligibility. Any participant who ceases to be eligible to participate in the program because of household income exceeding the applicable percentage of the federal poverty level ~~shall be~~ is entitled to continue to participate in the program for a period of 2 years following loss of eligibility, provided the participant's income does not exceed the applicable income eligibility standard by more than 50% and further provided the participant pays a premium established for such persons by the department by rule adopted in accordance with subsection 9. Notwithstanding this subsection, there is no transitional coverage available for adult participants in May 1991 or June 1991.

Sec. 8. 22 MRSA §3189, sub-§8-A is enacted to read:

8-A. Income redetermination. In order to redetermine eligibility for persons affected by the provisions of subsection 2, paragraph G and subsection 8 the period of eligibility of all adult participants with gross income more than 95% of federal poverty guidelines is terminated effective May 1, 1991. The department shall redetermine the eligibility of those participants based upon the most recent information in the participant's file and shall notify the participant of the finding of eligibility or ineligibility, and in the case of a notice of ineligibility, also provide notice of the participant's right to request a hearing within 30 days of receipt of the notice to review the accuracy of such finding. Notification is presumed to occur within 3 days of mailing. Notwithstanding any such request for hearing,

benefits terminate May 1, 1991 and may not be reinstated except by administrative decision.

Sec. 9. PL 1991, c. 9, Pt. X, §8, 3rd sentence is amended to read:

The task force shall report additional findings and recommendations, including appropriate authorizing legislation, to the Governor and the Legislature no later than ~~May~~ June 1, 1991.

Sec. 10. Application. Notwithstanding the Maine Revised Statutes, Title 5, chapter 375 or any other applicable law or rule, this Act applies to all persons participating in the Maine Health Program on the effective date of this Act, without regard to the provision of advance notice. The Department of Human Services is further authorized to conduct emergency rulemaking in accordance with the provisions of Title 5 in order to implement rules when the provisions of this Act have superseded prior rules.

Sec. 11. Effective date. Those parts of sections 2, 4, 5 and 6 that change eligibility for persons 18 and 19 years of age take effect upon notification from the federal Health Care Financing Administration that federal matching funds are available to cover eligible persons 18 and 19 years of age.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except as otherwise provided.

Effective April 23, 1991, unless otherwise indicated.

CHAPTER 43

H.P. 12 - L.D. 15

An Act to Clarify the Waste Transfer Station Setback Requirements

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

Sec. 1. 38 MRSA §1310-N, sub-§2-C, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §242, is repealed.

Sec. 2. 38 MRSA §1310-N, sub-§2-D is enacted to read:

2-D. Setback requirements for transfer stations. The department may not issue a permit or a license for a municipal solid waste transfer station unless the location of the handling site conforms to the following setback requirements.

A. For a transfer station on an island that is not connected to the mainland by a road, there is no setback