LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS

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to 25 United States Code, Section 1725(e)(1), copies of which must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives, except that in no event does this Act become effective until 90 days after the adjournment of the Legislature.

See title page for effective date, unless otherwise indicated.

CHAPTER 485

S.P. 594 - L.D. 1579

An Act to Limit Major Third-party Payor Status to Governmental Payors and Make Other Technical Changes in the Laws Affecting Hospital Financing

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

Sec. 1. 22 MRSA §304-A, sub-§3-A, as enacted by PL 1989, c. 919, §6 and affected by §18, is repealed and the following enacted in its place:

3-A. Hospital capital expenditures. The obligation, by or on behalf of a hospital, of any capital expenditure of $1,000,000 or more, except that:

A. A capital expenditure for the purpose of acquiring major medical equipment is reviewable only to the extent provided in subsection 2; and

B. Any transfer of ownership of a hospital is reviewable.

Sec. 2. 22 MRSA §304-D, sub-§1, ¶A, as enacted by PL 1985, c. 661, §2, is amended to read:

A. The offering or development of any new health services involving:

(1) No capital expenditure or a capital expenditure of less than $300,000; and

(2) Third-year annual operating costs of ~~at least the expenditure minimum for operating costs, but~~ less than $250,000~~; or~~.

Sec. 3. 22 MRSA §382, sub-§§9 and 10, as enacted by PL 1983, c. 579, §10, are repealed.

Sec. 4. 22 MRSA §386, sub-§7, as enacted by PL 1983, c. 579, §10, is amended to read:

7. Audits. The commission may, during normal business hours and upon reasonable notification, audit, examine and inspect any records of any health care facility to the extent that the activities are necessary to carry out its responsibilities. To the extent feasible, the commission shall avoid duplication of audit activities regularly performed by ~~major 3rd-party~~ payors.

Sec. 5. 22 MRSA §396, sub-§3, as repealed and replaced by PL 1989, c. 588, Pt. A, §9, is amended to read:

3. Average revenue per case payment system. The commission shall establish an average revenue per case payment system.

The per case system ~~shall~~ must have ~~2~~ 3 components.

A. The commission shall establish and approve limits on the average revenue per case mix adjusted inpatient admission, exclusive of the capital-related revenues subject to the component established under paragraph C.

B. For payment years beginning or deemed to begin on or after October 1, 1992, the commission shall regulate outpatient services by setting the rate per unit of service by department, exclusive of the capital-related revenues subject to the component established under paragraph C. For payment years beginning or deemed to begin before October 1, 1992, the commission shall establish revenue limits for outpatient services using methods consistent with those used in setting gross patient service revenue limits for payment years beginning prior to October 1, 1990, except that the capital-related revenues subject to the component established under paragraph C must be excluded. Nothing in this paragraph prohibits the commission from refining or modifying the method of adjusting for outpatient volume.

C. The commission shall establish and approve a separate gross patient service revenue limit component for those revenues necessary to provide a reasonable opportunity for each hospital to recover its total allowance for facilities and equipment as determined under section 396-D, subsection 3. This component must limit total revenues rather than revenues per admission or unit of service.

D. For payment years beginning before October 1, 1992, the commission may combine all or part of the component established under paragraph C with the component established under paragraph B.

Sec. 6. 22 MRSA §396-D, sub-§1, as amended by PL 1989, c. 588, Pt. A, §10, is further amended to read:

1. Economic trend factor. In determining payment year financial requirements, the commission shall include an adjustment for the projected impact of inflation on the prices paid by hospitals for the goods and services required to provide patient care. In order to measure and project the impact of inflation, the commission shall establish and use the following data:

A. Homogeneous classifications of hospital costs for goods and services and of capital costs, which shall be called "cost components;"

B. Estimates or determinations of the proportion of hospital costs in each cost component; and

C. Identification or development of proxies which measure the reasonable increase in prices, by cost component, which the hospitals would be expected to pay for goods and services.

The proxy or proxies chosen by the commission to measure the reasonable increase in employee compensation ~~shall~~ must reflect the experience of workers in the Northeast and regions of this State who are reasonably representative of professional medical personnel and other hospital workers.

The commission may also consider the discrepancies, if any, between the projected and actual inflation experience of noncompensation proxies in preceding payment years.

The commission may, from time to time during the course of a payment year, in accordance with duly promulgated regulations, make further adjustments in the event it obtains substantial evidence that its initial projections for the current payment year will be in error.

The commission may, in accordance with duly adopted rules, make a further positive or negative adjustment after the close of the payment year to the amount otherwise allowed for the impact of inflation, on the basis of the reasonable cost of liability insurance during that payment year.

Sec. 7. 22 MRSA §396-D, sub-§3, ¶D is enacted to read:

D. The commission may, in accordance with duly adopted rules, make a further adjustment after the close of any payment year for increases or decreases in the reasonable cost of facilities and equipment during that payment year.

Sec. 8. 22 MRSA §396-I, sub-§2, as repealed and replaced by PL 1989, c. 588, Pt. A, §33, is repealed and the following enacted in its place:

2. Apportionment among payors and purchasers. Based on historical or projected utilization data, the commission shall apportion, for each revenue center specified by the hospital subject to subsection 6, and for the hospital as a whole, the hospital's gross patient service revenue among the following categories:

A. The Medicare program administered under the federal Social Security Act, Title XVIII, and any payor acting as a fiscal intermediary for the Medicare program to the extent of the payor's obligations as a fiscal intermediary;

B. The Medicaid program administered by the department under the federal Social Security Act, Titles V and XIX; and

C. All other purchasers and payors, which together constitute one category.

Sec. 9. 22 MRSA §396-I, sub-§3, ¶¶A to C, as repealed and replaced by PL 1989, c. 588, Pt. A, §33, are amended to read:

A. Payments made by ~~major 3rd-party payors shall be~~ the department in accordance with its obligations under the Medicaid program, determined pursuant to subsection 2, paragraph B are made in accordance with the following procedures.

(1) The commission shall require ~~major 3rd-party payors~~ the department to make biweekly periodic interim payments to hospitals, provided that ~~any such payor~~ the department may, on its own initiative, make more frequent payments.

(2) After the close of each payment year, the commission shall adjust the apportionment of payments ~~among major 3rd-party payors~~ to the Medicaid program based on actual utilization data for that year. Final settlement ~~shall~~ must be made within 30 days of that determination.

B. For hospitals regulated according to the total revenue system, payments made by payors~~,~~ other than ~~major 3rd-party payors,~~ Medicare and Medicaid and by purchasers ~~shall be~~ are made in accordance with the following procedures.

(1) Payors, other than ~~major 3rd-party payors~~ Medicare and Medicaid, and purchasers ~~shall~~ pay on the basis of charges established by hospitals, to which approved differentials are applied. Hospitals shall establish these charges at levels which will reasonably ensure that its total charges, for each revenue center, or, at the discretion of the commission for groups of revenue centers and for the hospital as a whole, are equal to the portion of the gross patient service revenue apportioned to persons other than ~~major 3rd-party payors~~ the Medicare and Medicaid programs.

(2) Except as otherwise provided in this subparagraph, subsequent to the close of a payment year, the commission shall determine the amount of overcharges or undercharges, if any, made to payors, other than ~~major 3rd-party payors,~~ Medicare and Medicaid and to purchasers and shall adjust, by the percentage amount of the overcharges or undercharges, the portion of the succeeding year's gross pa-

tient service revenue limit that would otherwise ~~have been~~ be allocated to purchasers and payors other than ~~major 3rd-party payors~~ Medicare and Medicaid. Adjustments to the succeeding year's gross patient service revenue limit ~~shall~~ are not ~~be~~ made for undercharges if the undercharges resulted from an affirmative decision by the hospital's governing body to undercharge. Any such decision to undercharge must be disclosed to the commission in order that it may be taken into account in the apportionment of the hospital's approved gross patient service revenue among all payors and purchasers~~, including major 3rd-party payors~~.

C. Payments to hospitals on the per case system ~~shall be~~ are made on the basis of charges established consistent with limits set by the commission under that system. The commission shall establish by rule the necessary adjustments to approved revenues in subsequent payment years for hospitals determined to have overcharged or undercharged purchasers and payors other than ~~major 3rd-party payors~~ Medicare and Medicaid.

Sec. 10. Effective date. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 22, section 304-A, subsection 3-A takes effect October 1, 1991.

See title page for effective date, unless otherwise indicated.

CHAPTER 486

H.P. 1313 - L.D. 1899

An Act to Increase the Minimum Amount of Insurance Coverage Required for Limousines to Conform with Federal Law

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

Sec. 1. 29 MRSA §831, first ¶, as amended by PL 1989, c. 502, Pt. B, §31, is further amended to read:

The Secretary of State ~~shall~~ may not register any motor vehicle rented or leased on plans commonly known as U-Drive, Drive Yourself or Driverless Car plans nor any motor vehicle used for livery or hire other than a limousine, except as provided in section 2708, and no person, firm or corporation may operate or cause to be operated upon any public highway in this State any such motor vehicle, until the owner or owners thereof ~~shall~~ have procured insurance or a bond, having a surety company authorized to transact business in this State or 2 individuals as sureties thereon, in the amount of $20,000 because of bodily injury or death to any one person, and subject to the limit respecting one person, in the amount of $40,000 because of bodily injury to or death to 2 or more persons in any one accident, and in the amount of $10,000 because of injury to and destruction of property in any one accident, which insurance or bond ~~shall~~ must be approved by the Secretary of State and ~~shall~~ indemnify the insured against any legal liability for personal injury, the death of any person or property damage, which injury, death or damage may result from or have been caused by the operation of the motor vehicle described in the contract of insurance or such bond. The Secretary of State ~~shall~~ may not approve the policy or bond unless it provides primary coverage for the operator as well as the owner.

Sec. 2. 29 MRSA §831, as amended by PL 1989, c. 866, Pt. A, §7 and affected by Pt. B, §26, is further amended by adding after the first paragraph a new paragraph to read:

The Secretary of State may not register a limousine used for hire and a person, firm or corporation may not operate or cause to be operated upon any public highway in this State a limousine used for hire until the owner or owners have provided liability insurance in the amount of $1,500,000. For the purposes of this section, "limousine" means a luxury motor vehicle with a seating capacity of 5 or more passengers behind the driver.

See title page for effective date.

CHAPTER 487

H.P. 1205 - L.D. 1761

An Act to Limit Liability for Participants in Recycling Programs

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

Whereas, to encourage the statewide recycling effort, it is essential that this legislation be effective before the expiration of the 90-day period; 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. 14 MRSA §159-B is enacted to read:

§159-B. Limited liability for recycling activities by municipalities and regional associations