

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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
1993

B. The amount of the credit that may be used in any taxable year may not exceed the lesser of \$500,000 or the total amount of tax liability otherwise due of all taxable corporations that are members of an affiliated group engaged in a unitary business. Any unused credit may be carried over to the following year or years for a period not to exceed 7 years, including the year the credit was first taken, and may be deducted from the tax imposed by this Part for that year or those years, subject to the same limitations provided in this subsection.

The credit must be apportioned among the taxable corporations in the affiliated group in the same proportion that the tax liability of each taxable corporation in the affiliated group bears to the total tax liability of all the taxable corporations in the affiliated group.

7. Legislative findings. The Legislature finds ~~the~~ that encouragement of the growth of major industry in the State ~~to be~~ is in the public interest and ~~for the promotion of~~ promotes the general welfare of the people of the State; ~~and~~ that the use of investment tax credits to encourage industry to make substantial capital investments in the State is necessary to promote the purpose of the Legislature of encouraging the growth of industry; and that the Legislature ~~fur-~~ ther finds that the selecting of limits requirements of at least \$5,000,000 in qualified investment in the State and an increase of 200 at least 100 new jobs following the investment are reasonable qualifying criteria for the application of an investment tax credit and will best promote substantial capital investment in the State.

8. Report on jobs and investment tax credit. The State Tax Assessor shall submit annually, no later than June 1st, to the joint standing committee of the Legislature having jurisdiction over taxation matters a report on the jobs and investment tax credit. The report must reflect the number of taxpayers applying for the credits, the number of taxpayers granted the credit, the amount of qualified investments made, the number of jobs created and the annual average wage of the new jobs. The report must be presented in as much detail as possible without identifying the taxpayers receiving the credit or violating confidentiality requirements of section 191.

Sec. 2. Application and transition provisions. Those portions of this Act that amend the Maine Revised Statutes, Title 36, section 5215, subsection 1 and enact Title 36, section 5215, subsection 2, paragraphs A-1 and A-2 apply to tax years beginning on or after January 1, 1993 as well as to any amendment to a tax return for a tax year beginning before January 1, 1993 when that amended return is filed after January 1, 1993 and only to the extent that

the amendment relates to credit not taken or not carried over on a prior return for the tax year being amended or increases the amount of the credit taken on a prior return for the tax year being amended.

The portions of this Act that amend Title 36, section 5215, subsection 2, paragraph B and subsections 3, 4 and 7 and that enact Title 36, section 5215, subsection 6-B apply to tax years beginning on or after January 1, 1995.

See title page for effective date.

CHAPTER 673

S.P. 781 - L.D. 2012

An Act to Continue 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, funds are needed immediately to continue the Maine Health Program; 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 §396-G, sub-§6, as enacted by PL 1993, c. 410, Pt. FFF, §4, is amended to read:

6. Differentials; Maine Health Program. The commission shall provide that the differential determined pursuant to this section for the Maine Health Program for charges incurred by the program is equal to ~~60%~~ 100%.

Sec. 2. 22 MRSA §3189, sub-§1, as amended by PL 1993, c. 410, Pt. FFF, §5, is further amended to read:

1. Program created; intent. The Maine Health Program is created to expand access of Maine citizens to basic health care services. The Maine Health Program is intended to meet, to the extent of available funds, the health care needs of uninsured Maine residents with the highest priority being those needs of residents who are financially needy and under the age of 18. After April 1, ~~1994~~ 1995, the Maine Health Program is a privately administered

and funded program that may be governed by state law but there is no right or claim of entitlement to health care benefits under state law created by operation of the program.

Sec. 3. 22 MRSA §3189, sub-§5, as corrected by RR 1991, c. 2, §79, is repealed.

Sec. 4. 22 MRSA §3189, sub-§5-A is enacted to read:

5-A. Program development and administration. The department shall develop and administer the program with advice from the Advisory Board to Privatize the Maine Health Program and in accordance with this section.

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, nursing home benefits, case management services and day health services covered under Medicaid may not be offered as services under the program. The department may by rule exclude services or extensions of services for adults that are added to state Medicaid to maximize federal revenues for services previously funded with state funds. In addition, coverage under this program for hospital inpatient stays for individuals age 20 and older 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 a diagnosis of alcohol or substance abuse, until such time as the department adopts an alternative policy as described in divisions (a), (b) and (c), which must occur no later than the end of the 2nd quarter of fiscal year 1991-92.

(a) The department shall implement a new policy regarding hospital inpatient stays for mental disorders, including substance abuse, for individuals age 20 and older by no later than the end of the 2nd quarter of fiscal year 1991-92 that is consistent with the following guidelines:

(i) For detoxification services, payment for 3 days per episode and up to 2 additional days with

prior approval with a maximum of 3 episodes in any one-year period; and

(ii) For rehabilitation services, payment for a maximum of one episode per year with up to 3 days without prior approval and additional days with prior approval up to a maximum total of 17 days, which includes any detoxification days immediately before the rehabilitation days.

(b) The department shall implement a new policy regarding inpatient psychiatric care by no later than the end of the 2nd quarter of fiscal year 1991-92 that allows up to 3 days per episode with up to 21 additional days allowed with prior approval.

(c) The department shall adopt rules to implement this paragraph that allow the department to grant prior approval for inpatient psychiatric and substance abuse care only when medically necessary, which is limited to those circumstances when other treatment has failed, no other alternative exists or the patient's medical condition requires 24-hour monitoring and care.

(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 pro-

posed 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.

B. The department, in consultation with the Advisory Board to Privatize the Maine Health Program, shall develop plans to ensure appropriate utilization of services. The department's consideration must include, but is not 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, including the establishment of a Maine Health Program formulary. The department may utilize any existing Medicaid formulary for these purposes except that the department is not bound by federal law in determining what to allow or not allow on the formulary.

C. 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.

D. The department may initiate emergency rulemaking to further reduce expenditures by reducing eligibility or scope and amount of benefits, or both, as necessary to stay within available appropriations. The department shall give immediate notice to the committee of the proposed rule and the factual basis for the proposed rule. The rule may not take effect for 10 days following notice to the committee.

E. The department shall maximize the use of federal funds in order to minimize expenditures under the Maine Health Program. Any person eligible for benefits under Medicaid or the United States Family Support Act of 1988, Public Law 100-482 is ineligible to receive those benefits under the program. To maximize the use of federal funds, the department shall take all reasonable and necessary steps to apply for and seek federal Medicaid and other demonstration grants for children and adults, including, but not limited to, the grant programs pursuant to United States Public Law 101-508, Sections 4745 and 4747, and explore Medicaid options and less restrictive income and resource meth-

odologies for medically needy applicants in the Medicaid program. To the extent that the federal requirements for any demonstration grant impose upon the department more or different requirements affecting the program, the department shall comply with demonstration grant requirements. Any federal funds received for any demonstration grant or otherwise to provide health benefits for individuals previously covered by the Maine Health Program must be used to supplement and may not supplant state appropriations for additional enrollment in the Maine Health Program.

F. Prior to termination, the department shall review and determine eligibility for the program of any person whose eligibility for Medicaid or any other medical services program is being terminated.

G. The Department of Human Services shall issue a request for proposals to managed care providers including but not limited to health maintenance organizations, hospital networks and primary care management organizations to contract on a capitated basis for health care services to current enrollees of the Maine Health Program. The department shall negotiate a contract or contracts by June 30, 1994 or as soon as possible after June 30, 1994.

The contract or contracts must cover all or part of the period July 1, 1994 to March 31, 1995 and additional persons may not be enrolled during this period. The department shall transfer all enrollees to managed care providers by September 30, 1994, or as soon as possible after September 30, 1994.

The department shall seek approval from the federal Health Care Financing Administration for any and all modifications to the adult demonstration project required to carry out this directive. The request for proposals must specify the types and amounts of services to be provided and require an intensive ongoing quality assurance mechanism. If managed care plans are not available in certain areas of the State, enrollees remain in the program administered by the Bureau of Medical Services until managed care becomes available.

If a contract or contracts can not be negotiated in accordance with the conditions in this paragraph at or below the department's current estimate of per member, per month costs for fiscal year 1994-95, the Maine Health Program terminates.

Sec. 5. 22 MRSA §3189, sub-§8-C, as enacted by PL 1993, c. 410, Pt. FFF, §9, is amended to read:

8-C. Legislative intent. It is the intent of the Legislature that the appropriation for the Maine Health Program end on April 1, ~~1994~~ 1995.

Sec. 6. 22 MRSA §3189-A, sub-§2, ¶¶C and E, as enacted by PL 1993, c. 410, Pt. FFF, §14, are amended to read:

C. The advisory board shall solicit proposals from private entities to administer the Maine Health Program after March 31, ~~1994~~ 1995. The advisory board shall plan for the transition of program management from the Department of Human Services to a private contractor between August 1, ~~1993~~ 1994 and March 31, ~~1994~~ 1995. The advisory board has full authority to effect the transition to the private entity, which shall commence administration of the Maine Health Program on April 1, ~~1994~~ 1995.

E. The advisory board shall draft any legislation it determines necessary to govern the Maine Health Program as it will operate after April 1, ~~1994~~ 1995 and present it for consideration by the Legislature as soon as practical ~~after August 1, 1993~~.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1994-95

**HUMAN SERVICES,
DEPARTMENT OF**

Maine Health Program

All Other	\$1,395,940
Notwithstanding the Maine Revised Statutes, Title 22, section 3189, subsection 3, paragraph E-1, provides for the appropriation of funds to continue the adult portion of the Maine Health Program until March 31, 1995 based on March 1994 enrollment figures, no new enrollees and a 100% differential on hospital payments.	

Sec. 8. Allocation. The following funds are allocated from the Federal Expenditure Fund to carry out the purposes of this Act.

1994-95

**HUMAN SERVICES,
DEPARTMENT OF**

Medical Care - Payments to Providers

All Other	\$2,372,797
Notwithstanding the Maine Revised Statutes, Title 22, section 3189, subsection 3, paragraph E-1, provides for the allocation of funds to continue the adult portion of the Maine Health Program until March 31, 1995 based on March 1994 enrollment figures, no new enrollees and a 100% differential on hospital payments.	

Sec. 9. Expenses; adult portion of Maine Health Program. Notwithstanding any other provision of law, the Department of Human Services is authorized to meet the expenses of the adult portion of the Maine Health Program from the Medical Care - Payments to Providers program, Other Special Revenue account for the period of April 1, 1994 to June 30, 1994.

Sec. 10. Retroactivity. Sections 1 to 6 and section 9 of this Act apply retroactively to April 1, 1994.

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

Effective April 14, 1994.

CHAPTER 674

H.P. 1041 - L.D. 1393

An Act to Assist in Crime Prevention

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