

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

sufficient to fund the obligations of the Supplemental Benefits Fund under the Maine Revised Statutes, Title 39-A, section 213, subsections 3 and 4, the Supplemental Benefits Oversight Committee may levy an initial assessment under Title 39-A, section 356 to provide funds needed until the next assessment authorized by law.

Sec. 8. Transition. As of the effective date of this Act, the Workers' Compensation Board may no longer process requests for reimbursement from insurers pursuant to the Maine Revised Statutes, Title 39-A, section 213, subsections 3 and 4. All requests for such reimbursement filed with the board that have not received a final determination and been paid by the board must be forwarded to the Supplemental Benefits Oversight Committee without prejudice.

Sec. 9. Interpretation. Entitlement rights of claimants arising from benefits payable under the Maine Revised Statutes, Title 39-A, section 213, subsection 4 and benefit extensions ordered by the Workers' Compensation Board under that subsection are not modified, extended or abridged by amendments in this Act to Title 39-A, sections 355 to 356.

Sec. 10. Labor committee review. The Supplemental Benefits Oversight Committee created in the Maine Revised Statutes, Title 39-A, section 355-B shall meet with the Joint Standing Committee on Labor not later than February 1, 2002 to discuss implementation of this Act and to make recommendations for any changes needed to the Supplemental Benefits Fund or its operations. The Joint Standing Committee on Labor is authorized to report out legislation to the Second Regular Session of the 120th Legislature to amend the law as needed.

See title page for effective date.

CHAPTER 449

S.P. 154 - L.D. 498

An Act to Increase the Bond Ceiling of the University of Maine System

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

Sec. 1. 20-A MRSA §10952, sub-§7, as amended by PL 1997, c. 24, Pt. R, §1, is further amended to read:

7. Borrow money. To borrow money pursuant to this chapter and issue evidences of indebtedness to finance the acquisition, construction, reconstruction, improvement or equipping of any one project, or more than one, or any combination of projects, or to refund evidences of indebtedness hereafter issued or to refund

general obligation debt of the State, or to refund any such refunding evidences of indebtedness or for any one, or more than one, or all of those purposes, or any combination of those purposes, and to provide for the security and payment of those evidences of indebtedness and for the rights of the holders of them, except that any borrowing pursuant to this chapter, exclusive of borrowing to refund evidences of indebtedness, to refund general obligation debt of the State, or to fund issuance costs or necessary reserves, may not exceed in the aggregate principal amount outstanding at any time ~~\$100,000,000~~ **\$150,000,000**, and except that no borrowing may be effected pursuant to this chapter unless the amount of the borrowing and the project or projects are submitted to the legislative Office of Fiscal and Program Review for review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs at least 60 days before closing on such borrowing for the project or projects is to be initiated;

See title page for effective date.

CHAPTER 450

H.P. 979 - L.D. 1303

An Act to Increase Access to Health Care

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

PART A

Sec. A-1. 22 MRSA §3174-G, sub-§1, ¶¶D and E, as enacted by PL 1999, c. 731, Pt. OO, §1, are amended to read:

D. A child one year of age or older and under 19 years of age when the child's family income is equal to or below 150% of the nonfarm income official poverty line; ~~and~~

E. The parent or caretaker relative of a child described in paragraph B or D when the child's family income is equal to or below 150% of the nonfarm income official poverty line, subject to adjustment by the commissioner under this paragraph. Medicaid services provided under this paragraph must be provided within the limits of the program budget. Funds appropriated for services under this paragraph must include an annual inflationary adjustment equivalent to the rate of inflation in the Medicaid program. On a quarterly basis, the commissioner shall determine the fiscal status of program expenditures under this paragraph. If the commissioner determines that expenditures will exceed the funds available

to provide Medicaid coverage pursuant to this paragraph, the commissioner must adjust the income eligibility limit for new applicants to the extent necessary to operate the program within the program budget. If, after an adjustment has occurred pursuant to this paragraph, expenditures fall below the program budget, the commissioner must raise the income eligibility limit to the extent necessary to provide services to as many eligible persons as possible within the fiscal constraints of the program budget, as long as the income limit does not exceed 150% of the non-farm income official poverty line; and

Sec. A-2. 22 MRSA §3174-G, sub-§1, ¶F is enacted to read:

F. A person 20 to 64 years of age who is not otherwise covered under paragraphs A to E when the person's family income is below or equal to 100% of the nonfarm income official poverty line, provided that the commissioner shall adjust the maximum eligibility level in accordance with the requirements of the paragraph.

(1) If, on October 1, 2003 and annually thereafter, expenditures for the population described in this paragraph are reasonably anticipated to fall below the program budget, the commissioner shall raise the maximum eligibility level to the extent necessary to provide coverage to as many persons with income below 125% of the nonfarm income official poverty line as possible within the fiscal constraints of the Maine Health Access Fund described in section 260.

(2) If the maximum eligibility level is raised above 100% of the poverty level pursuant to this paragraph and subsequently the commissioner reasonably anticipates the cost of the program to exceed the budget of the population described in this paragraph, the commissioner shall lower the maximum eligibility level to the extent necessary to provide coverage to as many persons as possible within the program budget.

(3) The commissioner shall give at least 30 days' notice of the proposed change in maximum eligibility level to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over health and human services matters.

(4) The department must begin offering coverage 3 months after obtaining approval of a waiver of coverage from the United States Department of Health and Human Services or on October 1, 2002, whichever is later.

Sec. A-3. 22 MRSA §3174-T, sub-§2, ¶¶D and E, as reallocated by RR 1997, c. 2, §46, are amended to read:

D. Notwithstanding changes in the maximum eligibility level determined under paragraph B, the following requirements apply to enrollment and eligibility:

(1) Children must be enrolled for ~~6-month~~ 12-month enrollment periods. Prior to the end of each ~~6-month~~ 12-month enrollment period the department shall redetermine eligibility for continuing coverage; and

(2) Children of higher family income may not be covered unless children of lower family income are also covered. This subparagraph may not be applied to disqualify a child during the ~~6-month~~ 12-month enrollment period. Children of higher income may be disqualified at the end of the ~~6-month~~ 12-month enrollment period if the commissioner has lowered the maximum eligibility level under paragraph B.

E. Coverage under the Cub Care program may be purchased for children described in subparagraphs (1) and (2) for a period of up to 18 months as provided in this paragraph at a premium level that is revenue neutral and that covers the cost of the benefit and a contribution toward administrative costs no greater than the maximum level allowable under COBRA. The department shall adopt rules to implement this paragraph. The following children are eligible to enroll under this paragraph:

(1) A child who is enrolled under paragraph A or B and whose family income at the end of the child's ~~6-month~~ 12-month enrollment term exceeds the maximum allowable income set in that paragraph; and

(2) A child who is enrolled in the Medicaid program and whose family income exceeds the limits of that program. The department shall terminate Medicaid coverage for a child who enrolls in the Cub Care program under this subparagraph.

Sec. A-4. 22 MRSA §§3174-AA and 3174-BB are enacted to read:

§3174-AA. Asset limits

Beginning January 1, 2002, in determining eligibility for medical assistance under the Medicaid program for all individuals and families subject to an asset test, the department shall exempt from consideration all assets exempt pursuant to program rule on January 1, 2001 and shall adopt rules to exempt from consideration certain assets in amounts and under terms the department determines to be reasonable and consistent with the purposes of the Medicaid program as provided in this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The rules must provide exemptions for the following assets:

1. Second vehicle. A 2nd vehicle that is necessary for employment, to secure medical treatment or to provide transportation for essential daily activities or a vehicle that has been modified for operation by or the transportation of a person with a disability; and

2. Savings. An amount up to \$8,000 for an individual and up to \$12,000 for a household of more than one person.

§3174-BB. Enrollment periods

The department shall establish enrollment periods for medical assistance as provided in this section. Prior to the end of the enrollment period, the department shall determine continuing eligibility for the next enrollment period and notify the enrollee of the determination.

1. Children. In the Medicaid program and the Cub Care program under section 3174-T, the enrollment period for children under 19 years of age must be 12 months.

2. Adults. In the Medicaid program, the enrollment period must be the longest period allowed by federal law or regulation but may not exceed 12 months.

Sec. A-5. Waiver. The Department of Human Services shall amend the waiver application from the State that is pending before the federal Department of Health and Human Services Health Care Financing Administration. The amended waiver must provide for maximum access to all prescription drugs covered by the Medicaid program, including drugs for the treatment of cancer.

Sec. A-6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF		

Medical Care - Payments to Providers

All Other		\$3,347,990
Provides funds for Medicaid coverage to noncategorically eligible adults.		

Medical Care - Payments to Providers

All Other	\$82,468	\$118,347
Provides funds due to changes in the asset test used to determine eligibility for medical assistance under the Medicaid program.		

Bureau of Health

All Other	\$410,000	\$10,000
Provides funds to match available federal funding to promote the delivery of health care in rural areas of the State.		

Bureau of Medical Services

Positions - Legislative Count		(2,000)
Personal Services		\$91,558
All Other	\$25,000	68,744
Total	\$25,000	\$160,302

Provides funds for one Social Services Program Manager position and one Comprehensive Health Planner II position in fiscal year 2002-03 and related operating costs associated with expanding the access to the Medicaid program.

Bureau of Family Independence

Positions - Legislative Count		(9,000)
Personal Services		\$364,656
All Other		76,500
Total		\$441,156

Provides funds for 7 Family Independence Specialist positions, one Family Independence Unit Supervisor position and one Clerk Typist II position in fiscal year 2002-03 and related operating costs associated

with expanding the access to the Medicaid program.

DEPARTMENT OF HUMAN SERVICES

TOTAL	\$117,468	\$4,077,795
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Sec. A-7. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Part.

	2001-02	2002-03
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HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers

All Other		\$6,669,932
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Provides funds for the federal match for Medicaid coverage to noncategorically eligible adults.

Medical Care - Payments to Providers

All Other	\$163,448	\$235,772
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Provides funds for the federal match due to changes in the asset test used to determine eligibility for medical assistance under the Medicaid program.

Bureau of Medical Services

Positions - Legislative Count		(2,000)
Personal Services		91,558
All Other	\$25,000	\$68,744
Total	\$25,000	\$160,302

Provides funds for one Senior Medical Claims Adjuster position and one Social Services Program Specialist I position in fiscal year 2002-03 and related operating costs associated with expanding the access to the Medicaid program.

Bureau of Family Independence

Positions - Legislative Count		(9,000)
Personal Services		\$364,656
All Other		76,500
Total	\$441,156	

Provides funds for 6 Family Independence Specialist positions, 2

Family Independence Unit Supervisor positions and one Clerk Typist II position in fiscal year 2002-03 and related operating costs associated with expanding the access to the Medicaid program.

DEPARTMENT OF HUMAN SERVICES

TOTAL	\$188,448	\$7,507,162
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PART B

Sec. B-1. 22 MRSA §259 is enacted to read:

§259. Support for primary and preventive health care services

The department shall maintain and expand health care access for underserved populations using funds appropriated for these purposes by the Legislature as provided in this section.

1. Support for federally qualified health centers. The department shall provide support for federally qualified centers as follows:

A. Seventy-five thousand dollars in fiscal years 2001-02 and 2002-03 as the state Medicaid match to contract for Medicaid outstationing services at federally qualified health centers; and

B. Six hundred ninety-nine thousand, one hundred fifty dollars in fiscal year 2001-02 to federally qualified health center grantees to support the infrastructure of these programs in providing primary care services to underserved populations. Forty-four thousand, two hundred fifty dollars must be provided to each grantee with an additional \$8,850 for the 2nd and each additional site operated by a grantee. For the purposes of this paragraph, "site" means a site or sites operated by the grantee within its scope of service that meet all health center requirements, including providing primary care services, regardless of patients' ability to pay, 5 days a week with extended hours. If there is not sufficient funding to meet the formula in this paragraph, the \$699,150 must be allocated in proportion to the formula outlined in this paragraph.

2. Restriction. Funding provided under this section may not supplant other sources of funding.

Sec. B-2. 22 MRSA §3192 is enacted to read:

§3192. Affordable Health Care Fund

The Affordable Health Care Fund is established to assist individuals with the costs of participation in community health access programs. The fund is a

nonlapsing fund and any excess funds may be used only for the purposes of this section. The fund may be used only to subsidize the costs of community health access programs' fees. The department shall establish subsidies on a sliding scale based on income for eligible individuals enrolled in community health access programs. Individuals eligible for health coverage under the Medicaid or Medicare program are not eligible to receive a subsidy from this fund.

Provides funds for the federal match to contract for Medicaid outstationing services at federally qualified health centers and federally qualified look-alikes.

PART C

Sec. B-3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Medical Services		
All Other	\$75,000	\$75,000
Provides funds to contract for Medicaid outstationing services at federally qualified health centers and federally qualified look-alikes.		
Bureau of Health		
All Other	\$699,150	
Provides funds to support the primary care infrastructure of federally qualified health centers providing health care services to underserved populations.		
Affordable Health Care Fund		
All Other	\$50,000	
Provides funds to establish the Affordable Health Care Fund to provide subsidies for individuals enrolled in community health access programs.		
DEPARTMENT OF HUMAN SERVICES		
TOTAL	\$824,150	\$75,000

Sec. C-1. Waiver application for noncategorically eligible adults. By March 1, 2002, the Department of Human Services shall apply for a waiver from the federal Health Care Financing Administration to provide coverage for noncategorically eligible adults 20 to 64 years of age pursuant to the Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraph F.

Sec. C-2. MaineCare program. Beginning January 1, 2002, when the Department of Human Services or other state departments print new materials pertaining to the Medicaid program or the Cub Care program, reference to the program must be stated as the MaineCare program. Beginning July 1, 2002, the coverage that was provided under the Medicaid program and the Cub Care program on June 30, 2002 will be provided under the new name, the MaineCare program. Beginning July 1, 2002, all funding appropriated or allocated for expenditure under the Medicaid program or the Cub Care program is appropriated or allocated under the MaineCare program, all contractual arrangements of the Medicaid program and the Cub Care program remain in effect and all assets, liabilities and responsibilities of the department with regard to the Medicaid program and the Cub Care program are transferred to the MaineCare program. Before January 1, 2002, the department shall report to the Joint Standing Committee on Health and Human Services on legislation and other action necessary to complete the transfer of names of the Medicaid program and the Cub Care program. The department is authorized to submit legislation to the Second Regular Session of the 120th Legislature to complete the transfer of names and functions to the MaineCare program.

Sec. C-3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Part.

Sec. B-4. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Part.

	2001-02	2002-03
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Medical Services		
All Other	\$75,000	\$75,000

	2001-02
HUMAN SERVICES, DEPARTMENT OF	
Bureau of Medical Services	
All Other	\$49,500

Provides funds to change the name of all Medicaid and Cub Care programs to the MaineCare program.

Sec. C-4. Allocation. The following funds are allocated from the Federal Expenditures Fund to carry out the purposes of this Part.

2001-02

**HUMAN SERVICES,
DEPARTMENT OF**

Bureau of Medical Services

All Other	\$49,500
Provides funds for the federal match to change the name of all Medicaid and Cub Care programs to the MaineCare program.	

PART D

Sec. D-1. 36 MRSA §4366-D is enacted to read:

§4366-D. Additional cigarette tax

1. Additional tax imposed. Beginning October 1, 2001, an additional tax is imposed of 3 mills for each cigarette imported into this State or held for sale in this State by any person. The tax imposed under this section must be added to the tax imposed under section 4365 and collected and administered in the same manner as the tax under that section.

2. Transition. The State Tax Assessor shall adopt rules to ensure that cigarettes sold or held for resale, including sales through vending machines, on October 1, 2001 are stamped at the combined tax rate applicable under section 4365 and this section. The rules must specify a due date for payment of tax due under this subsection. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

PART E

Sec. E-1. 22 MRSA §260 is enacted to read:

§260. Maine Health Access Fund

There is established the Maine Health Access Fund, referred to in this section as the "fund," as a dedicated fund to provide expanded access to health care.

1. Transfers to fund. The State Controller shall transfer to the fund such money as authorized by law. The fund may also receive funds from other sources that are designated for the fund. Interest earned on fund balances and investment income on balances in the fund accrue to the fund.

2. Nonlapsing. Any unexpended balances in the fund may not lapse but must be carried forward.

3. Restriction. Allocations from the fund must be used to supplement and not supplant appropriations from the General Fund.

Sec. E-2. Transfer of funds. Any unexpended amounts from the General Fund appropriations in this Part must be transferred by the State Controller to the Maine Health Access Fund.

See title page for effective date.

CHAPTER 451

H.P. 603 - L.D. 758

**An Act Concerning the Training of
Personnel Who Administer
Medications in Schools**

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

Sec. 1. 20-A MRSA §254, sub-§5, ¶A, as enacted by PL 1999, c. 669, §1, is amended to read:

A. The commissioner shall adopt ~~or amend~~ rules for the administration of medication in public or approved private schools, including the training of unlicensed personnel to administer medication. The rules for training must describe how the department will provide training at the local level directly to unlicensed personnel in each school administrative unit or approved private school in the State. Rules adopted pursuant to this section are routine technical major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 2. Commissioner to submit draft rules. The Commissioner of Education shall submit the provisionally adopted rules required by the Maine Revised Statutes, Title 20-A, section 254, subsection 5 to the Legislature for review by the Joint Standing Committee on Business and Economic Development no later than February 28, 2002.

See title page for effective date.