

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE FIRST SPECIAL SESSION OF THE
ONE HUNDRED AND TWENTY-FIRST
LEGISLATURE
2003

CHAPTER 507

H.P. 1213 - L.D. 1636

**An Act To Make Additional
Supplemental Appropriations and
Allocations for the Expenditures of
State Government and To Change
Certain Provisions of the Law
Necessary to the Proper Operations
of State Government for the Fiscal
Years Ending June 30, 2004 and June
30, 2005**

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

Whereas, certain obligations and expenses incident to the operation of state departments and institutions will become due and payable immediately; 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:

PART A

Sec. A-1. PL 2003, c. 20, Pt. FFF, §1, sub-§§1 and 2 are amended to read:

1. The Commissioner of Administrative and Financial Services, referred to in this section as "the commissioner," and any insurance company or 3rd-party administrator, referred to in this section as "the carrier," insuring or administering the state employee health plan, referred to in this section as "the plan," shall jointly negotiate agreements with hospitals participating in the carrier's provider network to reduce the expense incurred by the plan in state fiscal year 2003-04 by the amount of at least \$18,020,851 and in state fiscal year 2004-05 by the amount of at least \$19,728,208. In undertaking such negotiations the carrier must be deemed at all times to be the agent of the State. The commissioner and the carrier acting

at the direction of the commissioner may offer or ~~demand~~ negotiate such terms and conditions as the commissioner considers to be in the best interest of the State to reduce the expense of the state employee health plan, including, but not limited to, offering or ~~demanding~~ negotiating reductions in standard hospital reimbursement rates, rebates and refunds and uniform terms relating to such reductions, rebates or refunds. The commissioner may not affect or seek to affect amounts paid to hospitals relating to any other customer of the carrier.

2. The Commissioner of Human Services shall implement appropriate normalizing adjustments, no less than annually, to the public revenue component and the annual periodic interim payments, PIP, of each such hospital, consistent with the requirements of Title XIX of the federal Social Security Act, ~~to offset the impact of any plan related revenue reduction under this section. If any payment made in accordance with this subsection is subsequently determined to be subject to recoupment, the State shall reimburse hospitals for all such recoupment costs paid by a hospital. In the event that federal financial participation is denied in any payments resulting from adjustments made pursuant to this subsection, the State may not recoup any such payments from the hospitals to which they were made.~~

Sec. A-2. PL 2003, c. 451, Pt. Z, §1, sub-§§1, 2, 3 and 5 are amended to read:

1. The Chancellor of the University of Maine System, referred to in this section as "the chancellor," and any insurance company or 3rd-party administrator acting at the direction of the State, referred to in this section as "the carrier," insuring or administering the University of Maine System health plan for employees and retirees, referred to in this section as "the plan," shall negotiate agreements with hospitals participating in the carrier's provider network to reduce the expense incurred by the plan in state fiscal year 2003-04 by the amount of \$2,250,000 and in state fiscal year 2004-05 by the amount of \$2,250,000. It is not the intent of the Legislature to require negotiations to reduce such expenses beyond state fiscal year 2005. In undertaking such negotiations, the carrier is deemed at all times to be the agent of the State of Maine and the University of Maine System. The chancellor and the carrier, acting at the direction of the State, may offer or ~~demand~~ negotiate such terms and conditions as the

chancellor considers to be in the best interest of the university to reduce the expense of the plan, including, but not limited to, offering or ~~demanding negotiating~~ reductions in standard hospital reimbursement rates, rebates and refunds and uniform terms relating to such reductions, rebates or refunds. The chancellor may not affect or seek to affect amounts paid to hospitals relating to any other customer of the carrier. The hospital discount rate resulting from this specific arrangement is not intended to affect the underlying premium rates for any purpose. This pooling of funds by the State is not intended to affect plan cost recoveries, plan cost structures or the university's ability to negotiate with carriers regarding the plan.

2. The Commissioner of Human Services shall implement appropriate normalizing adjustments, no less than annually, to the public revenue component and the annual periodic interim payments of each hospital under subsection 1, consistent with the requirements of Title XIX of the federal Social Security Act, ~~to offset the impact of any plan related revenue reduction under this section. If any payment made in accordance with this subsection is subsequently determined to be subject to recoupment, the State shall reimburse the hospital for all such recoupment costs paid by the hospital. In the event that federal financial participation is denied in any payments resulting from adjustments made pursuant to this subsection, the State may not recoup any such payments from the hospitals to which they were made.~~

3. Any carrier subject to this section is immune from any claim of or liability to any enrollee, any hospital or other health care provider for any action taken in furtherance of the authority and directives as set forth in this section. The terms of this section are deemed to amend the contract between the carrier and the University of Maine System and prevail over any inconsistent terms in the contract or certificates of coverage. A reimbursement rate, discount or rebate resulting from an agreement under subsection 1 may not be used by the carrier as a reference or base rate for any other contractual arrangement.

5. Notwithstanding the provisions of the Maine Revised Statutes, Title 24-A, including sections 2174, 2185 and 2677-A, the agreement negotiated in accordance with subsection 1 may provide for adjustments to the amounts payable to providers on an aggregate services basis and on a retrospective basis; ~~and such adjustments may not require any change to previously calculated coinsurance amounts, deductibles, lifetime maximums, benefit differentials or other benefit calculations relating to services to individual enrollees covered under the plan provided by or arranged by the University of Maine System. The aggregate share of financial responsibility contributed by employees and retirees for their coverage through coinsurance amounts, deductibles, lifetime maximums,~~

benefits differentials or other benefit calculations may increase as a proportion of the total cost. The changes made by this subsection may not require any changes in the current dollar level of employee cost sharing under the plan provided by or arranged by the University of Maine System. The chancellor shall provide notice to all such covered persons that the State has ~~arranged for a reduction negotiated reductions~~ in the cost of medical services to the University of Maine System ~~and that such reduction will not be taken into consideration in~~ and shall describe the effect on the calculation of coinsurance amounts, deductibles, lifetime maximums, benefit differentials or other benefit calculations applicable to the plan benefits provided by or arranged by the system. Such notice must include any additional disclosures necessary to fully inform such persons of the implications of this arrangement. It is not the responsibility of the carrier to provide such disclosure or notice.

Sec. A-3. Retroactivity. That section of this Part that amends Public Law 2003, chapter 20 applies retroactively to July 1, 2003 and that section of this Part that amends Public Law 2003, chapter 451 applies retroactively to June 12, 2003.

PART B

Sec. B-1. Supplemental appropriations and allocations. There are appropriated and allocated from the various funds for the fiscal year ending June 30, 2004, to the departments listed, the following sums.

**HUMAN SERVICES, DEPARTMENT OF
Elder and Adult Services - Bureau of 0140**

Initiative: Provides for the appropriation and allocation of funds for Alzheimer's respite services, homemaker services and the long-term care ombudsman program.

General Fund	2003-04
All Other	\$128,915
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General Fund Total	\$128,915
Other Special Revenue Funds	
All Other	\$11,700
	<hr/>
Other Special Revenue	
Funds Total	\$11,700

Congregate Housing 0211

Initiative: Provides for the appropriation of funds for independent housing with services and assisted living programs.

General Fund	2003-04
All Other	\$67,843
	\$67,843

Long Term Care - Human Services 0420

Initiative: Provides for the appropriation of funds for long-term care assessments.

General Fund	2003-04
All Other	\$186,000
	\$186,000

HUMAN SERVICES, DEPARTMENT OF DEPARTMENT TOTALS 2003-04

GENERAL FUND	\$382,758
OTHER SPECIAL REVENUE FUNDS	11,700

DEPARTMENT TOTAL - ALL FUNDS	\$394,458
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PART C

Sec. C-1. 22 MRSA §1815, as amended by PL 2003, c. 20, Pt. K, §4, is further amended to read:

§1815. Fees

Each application for a license to operate a hospital, convalescent home or nursing home must be accompanied by a nonrefundable fee. Hospitals shall pay ~~\$100~~ \$40 for each bed contained within the facility. Nursing and convalescent homes shall pay \$45 ~~\$26~~ for each bed contained ~~with~~ within the facility. Each application for a license to operate an ambulatory surgical facility must be accompanied by the fee established by the department. The department shall establish the fee for an ambulatory surgical facility, not to exceed \$500, on the basis of a sliding scale representing size, number of employees and scope of operations. All licenses issued must be renewed annually upon payment of a like fee. The State's share of all fees received by the department under this chapter must be deposited in the General Fund. A license granted may not be assignable or transferable. State hospitals are not required to pay licensing fees.

Sec. C-2. Federal funds to be nonlapsing. Notwithstanding any other provision of law, the carry-over balance of federal funds received by the Department of Human Services from the federal Department of Health and Human Services' Administration on Aging, as a result of the federal Older Americans Act of 1965 and granted to the Area Agencies on Aging or

Maine Alzheimer's Project from fiscal year 2002-03, may not lapse back to the State but must be carried forward until September 30, 2005 by the Area Agencies on Aging or Maine Alzheimer's Project to carry out the missions of their programs.

Sec. C-3. Department of Human Services; revenue. Notwithstanding any other provision of law, the Department of Human Services shall deposit to the General Fund, no later than June 30, 2004, undedicated revenue in the amount of \$382,758, generated from fiscal year 2002-03 funds returned from providers.

Sec. C-4. Retroactivity. That section of this Part that amends the Maine Revised Statutes, Title 22, section 1815 applies retroactively to July 1, 2003.

PART D

Sec. D-1. PL 2003, c. 333, §22 is repealed.

Sec. D-2. Effective date. That section of this Part that repeals Public Law 2003, chapter 333, section 22 takes effect September 13, 2003.

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

Effective August 26, 2003, unless otherwise indicated.

CHAPTER 508

S.P. 600 - L.D. 1637

An Act To Provide a Clear Transition for the County Commissioner Districts as Apportioned by Public Law 2003, Chapter 43 and as Codified by Public Law 2003, Chapter 291

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

Whereas, the public laws effecting reapportionment of county commissioner districts do not provide a clear transition provision; and

Whereas, the passage of this legislation is immediately necessary for the Secretary of State to prepare ballots for the 2 county charter commission elections in November 2003; 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