

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

determine the number of miles of federally supported dark fiber strands sold, leased or used in the service territory of each incumbent local exchange carrier.

4. Deposit. The authority shall:

A. Deposit 5% of the funds received under subsection 3 into the ConnectME Fund established under section 9211 and may use these funds to support the activities of the authority under this section and for the purposes of section 9204; and

B. Deposit 95% of the funds received under subsection 3 into the broadband sustainability fund established pursuant to subsection 5.

5. Broadband sustainability fund. The authority shall establish a broadband sustainability fund, separate and distinct from any other funds held or maintained by the authority, for use in accordance with subsection 6. The fund is nonlapsing and all interest on funds in the fund remains in the fund for use in accordance with subsection 6. The authority may contract with an appropriate independent fiscal agent that is not a state entity to serve as the administrator of the fund. All funds deposited in the broadband sustainability fund are deemed to be encumbered for purposes of subsection 6 at the time the funds are deposited in the fund.

6. Use of the broadband sustainability fund.

The authority shall provide incumbent local exchange carriers a right of first refusal to access the broadband sustainability fund established pursuant to subsection 5 in accordance with this subsection.

A. The authority shall allocate funds in the broadband sustainability fund established pursuant to subsection 5 to each incumbent local exchange carrier in accordance with this paragraph. Each month, the authority shall allocate to each incumbent local exchange carrier an amount equal to the total amount deposited that month into the broadband sustainability fund multiplied by a fraction, the denominator of which is the total number of miles of federally supported dark fiber leased, sold or used in this State during the previous month and the numerator of which is the total number of miles of federally supported dark fiber leased, sold or used in that incumbent local exchange carrier's service territory during the previous month. Any accumulated interest in the fund must be allocated proportionally. Only those amounts allocated to an incumbent local exchange carrier under this paragraph are available for disbursement to that carrier pursuant to paragraph B. By December 31st of each calendar year, the authority shall make an accounting of the total funds allocated during that calendar year to each incumbent local exchange carrier under this paragraph, and if by December 31st of the following calendar year some or all of those funds allocated to a car-

rier are not disbursed to that carrier in accordance with paragraph B, the authority shall transfer those unspent funds to the ConnectME Fund established under section 9211 for use in accordance with that section. Funds transferred to the ConnectME Fund under this paragraph cease to be available to any incumbent local exchange carrier pursuant to the provisions of this section.

B. To receive a disbursement from the broadband sustainability fund established pursuant to subsection 5, an incumbent local exchange carrier must file with the authority a request for funds together with a certification indicating that the funds requested will be used to deploy broadband infrastructure in unserved areas within the carrier's service territory. The certification must include the projected cost for the project and the scope of work, which must indicate how the funds will be spent. Upon receipt of a request for funds accompanied by the required certification, the authority shall disburse the requested amount to the incumbent local exchange carrier up to an amount not to exceed the total amount allocated under paragraph A to the requesting carrier.

C. An incumbent local exchange carrier may not expend funds received under paragraph B in a manner inconsistent with the certification provided by the carrier under paragraph B. The authority may audit the use by an incumbent local exchange carrier of funds disbursed in accordance with paragraph B.

D. On the last day of the 12th month following the end of the 2nd assessment period, the authority shall transfer all funds remaining in the broadband sustainability fund established pursuant to subsection 5 to the ConnectME Fund established under section 9211 for use in accordance with that section. Funds transferred to the ConnectME Fund pursuant to this paragraph cease to be available to any incumbent local exchange carrier pursuant to the provisions of this section.

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

Effective April 6, 2010.

CHAPTER 613

H.P. 1088 - L.D. 1544

**An Act To Amend the Laws
Governing the Maine Health
Data Processing Center and the
Maine Health Data
Organization**

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

Sec. 1. 10 MRSA §681, as enacted by PL 2001, c. 456, §1, is amended to read:

§681. Authority to establish

The Maine Health Data Organization, established pursuant to Title 22, chapter 1683, and a nonprofit health data processing entity referred to in this chapter as ~~the "Maine Health Information Center"~~ "Onpoint Health Data" or its successor organization may form a nonprofit corporation under Title 13-B in order to collect and process health care claims data, to be known as the Maine Health Data Processing Center, referred to in this chapter as the "center." The center shall carry out its purposes in complement to and in coordination with the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data.

The center is a nonprofit corporation with a public purpose and the exercise by the center of the powers conferred by this chapter is an essential governmental function.

Sec. 2. 10 MRSA §682, sub-§2, as enacted by PL 2001, c. 456, §1, is amended to read:

2. Developing claims-based data. Building upon the experience and expertise of the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data to collect, process and maintain health care data extracted from claims data in a cost-effective manner;

Sec. 3. 10 MRSA §683, as amended by PL 2009, c. 71, §1, is further amended to read:

§683. Board of directors; officers

The Board of Directors of the Maine Health Data Processing Center, referred to in this chapter as the "board of directors," consists of ~~13~~ 11 directors.

1. Nominations. The director of the Maine Health Data Organization and the president of ~~the Maine Health Information Center~~ Onpoint Health Data are ex officio members of the board of directors and are authorized to vote. ~~The~~ In order to achieve balanced representation, the director and president shall nominate the following representatives for service on the board of directors:

A. ~~One member~~ Three members representing different constituencies of the Maine Health Information Center ~~Onpoint Health Data~~ board of directors and ~~one member~~ 3 members representing different constituencies of the Maine Health Data Organization board of directors; and

B. ~~Four representatives of health care providers, 2 of whom must represent hospitals;~~ Three nominees chosen from among the following constitu-

ency categories that are underrepresented on the board of directors:

(1) Health care providers;

(2) Third-party payors;

(3) Employers; and

(4) Consumers of health care.

~~C. Two representatives of 3rd party payors;~~

~~D. One representative of consumers of health care; and~~

~~E. Two representatives of employers.~~

2. Election. The names of the representatives nominated under this section must be presented to the boards of directors of the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data for election to the board of directors.

3. Limitation on terms. An elected person may serve as a director for not more than 2 5-year terms in succession and continues to serve until a successor has been appointed.

4. Chairs. The board of directors shall elect a chair and a vice-chair from among its members at the first meeting of the board each year.

5. Manager. The board of directors shall appoint a manager to serve at the pleasure of the board and to represent the board in the management of the center. The manager has the necessary authority and responsibility for the operational management of the center in all of the activities of the center.

Sec. 4. 10 MRSA §688, as enacted by PL 2001, c. 456, §1, is amended to read:

§688. Audit; public access

Before January 1st of each year, the center shall provide an independent audit of the activities of the center to the boards of directors of the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data. Audits must be done as required by law or by the Department of Administrative and Financial Services. To ensure public accountability, the center is subject to the provisions of Title 1, chapter 13, subchapter ~~1~~ 1.

Sec. 5. 10 MRSA §689, sub-§1, as amended by PL 2005, c. 565, §4, is further amended to read:

1. Net earnings of center. The annual net earnings of the center must be distributed to the Maine Health Data Organization and ~~the Maine Health Information Center~~ Onpoint Health Data in proportion to the average annual funding provided by each entity for the operational costs of the center. The net earnings of the center may not inure to the benefit of any officer, director or employee, except that the center is authorized and empowered to pay reasonable compensation

for services rendered and otherwise hold, manage and dispose of its property in furtherance of the purposes of the center.

Sec. 6. 10 MRSA §689, sub-§2, as enacted by PL 2001, c. 456, §1, is amended to read:

2. Dissolution of center. Upon dissolution of the center, the board of directors shall, after paying or making provision for the payment of all liabilities of the center, cause all of the remaining assets of the center to be transferred to the Maine Health Data Organization and ~~the Maine Health Information Center On-point Health Data~~ in shares proportionate to the total revenue transferred to the center by each entity.

Sec. 7. 22 MRSA §8705-A, sub-§6 is enacted to read:

6. Exception. Notwithstanding the provisions of subsections 3, 4 and 5, the board or the Attorney General may not assess fines, initiate enforcement actions or seek injunctive relief against a payor that has submitted claims data for any billing provider data element contained in a claim furnished by the billing provider or for any service provider data element when associated with the billing provider elements or that fails to meet the thresholds for the data elements related to billing providers established by the organization or the Maine Health Data Processing Center under the requirements of Title 10, section 682. This subsection is repealed July 1, 2011.

Sec. 8. 22 MRSA §8712, as amended by PL 2009, c. 71, §8 and c. 350, Pt. A, §1, is further amended to read:

§8712. Reports

The organization shall produce clearly labeled and easy-to-understand reports as follows. Unless otherwise specified, the organization shall distribute the reports on a publicly accessible site on the Internet or via mail or e-mail, through the creation of a list of interested parties. ~~The organization shall publish a notice of the availability of these reports at least once per year in the 3 daily newspapers of the greatest general circulation published in the State. The organization shall make reports available to members of the public upon request.~~

1. Quality. ~~At a minimum, the~~ The organization shall promote public transparency of the quality and cost of health care in the State in conjunction with the Maine Quality Forum, established in Title 24-A, section 6951, and shall develop and produce annual quality reports collect, synthesize and publish information and reports on an annual basis that are easily understandable by the average consumer and in a format that allows the user to compare the information listed in this section to the extent practicable. The organization's publicly accessible websites and reports must, to the extent practicable, coordinate, link and compare

information regarding health care services, their outcomes, the effectiveness of those services, the quality of those services by health care facility and by individual practitioner and the location of those services. The organization's health care costs website must provide a link in a publicly accessible format to provider-specific information regarding quality of services required to be reported to the Maine Quality Forum.

2. Payments. The organization shall create a publicly accessible interactive website that presents reports related to health care facility and practitioner payments for services rendered to residents of the State. The services presented must include, but not be limited to, imaging, preventative health, radiology and surgical services and other services that are predominantly elective and may be provided to a large number of patients who do not have health insurance or are underinsured. The website must also be constructed to display prices paid by individual commercial health insurance companies, 3rd-party administrators and, unless prohibited by federal law, governmental payors.

~~A. The organization shall promote public transparency of the quality and cost of health care in the State, in conjunction with the Maine Quality Forum as established in Title 24-A, section 6951, and shall collect, synthesize and publish information and reports on an annual basis that are easily understandable by the average consumer and in a format that allows the user to compare the information listed in this section to the extent practicable. The organization's publicly accessible websites and reports shall, to the extent practicable, coordinate, link and compare information regarding health care services, their outcomes, the effectiveness of those services, the quality of those services by health care facility and by individual practitioner and the location of those services. The organization's health care costs website must provide a link in a publicly accessible format to provider specific information regarding quality of services required to be reported to the Maine Quality Forum.~~

3. Comparison report. At a minimum, the organization shall develop and produce an annual report that compares the 15 most common diagnosis-related groups and the 15 most common outpatient procedures for all hospitals in the State and the 15 most common procedures for nonhospital health care facilities in the State to similar data for medical care rendered in other states, when such data are available.

4. Physician services. The organization shall provide an annual report of the 10 services and procedures most often provided by osteopathic and allopathic physicians in the private office setting in this State. The organization shall distribute this report to all physician practices in the State. The first report must be produced by July 1, 2004.

Sec. 9. 24-A MRSA §2436, sub-§2-A, as amended by PL 2003, c. 469, Pt. D, §4 and affected by §9, is repealed and the following enacted in its place:

2-A. For a claim submitted by a health care provider or health care facility with respect to a health plan as defined in section 4301-A, subsection 7, for purposes of this section, "undisputed claim" means a timely claim for payment of covered health care expenses that is submitted to a carrier in conformity with the following requirements.

A. The claim must be submitted on one of the following claims forms:

(1) For a health care facility claim submitted on paper, the standard claim form, using standards approved by a national uniform billing committee;

(2) For a health care provider claim submitted on paper, the standard claim form, using standards approved by a national uniform claim committee; and

(3) For health care facility and health care provider claims submitted electronically, an electronic form using standards approved by an accredited standards committee of the American National Standards Institute.

Sec. 10. 24-A MRSA §2436, sub-§2-B is enacted to read:

2-B. If a claim does not conform to the requirements specified in subsection 2-A and payment is denied to a health care provider or health care facility by a carrier, the health care provider or health care facility may not request payment from the insured or beneficiary and shall attempt to rectify the deficiencies with the claim and resubmit the claim to the carrier.

Sec. 11. Claim forms. For the purposes of the Maine Revised Statutes, Title 24-A, section 2436, subsection 2-A, paragraph A, subparagraph (1), it is the intent of the Legislature that the standard claim form is the UB-04. For the purposes of Title 24-A, section 2436, subsection 2-A, paragraph A, subparagraph (2), it is the intent of the Legislature that the standard claim form is the CMS-1500.

Sec. 12. Working group. The Maine Health Data Organization shall convene a working group including representatives of health care providers, health coverage carriers and other interested parties to resolve issues regarding submission of data concerning service and billing providers and to present a plan of action and implementation schedule to provide the data to the Maine Health Data Organization in a timely and accurate fashion. The working group must be cochaired by one person chosen by the providers and one person chosen by the carriers. By November 15, 2010, the working group shall report to the Joint Standing Committee on Health and Human Services

with a plan to resolve the service and provider issues and with an implementation schedule.

See title page for effective date.

CHAPTER 614

H.P. 1206 - L.D. 1705

An Act To Align the Duties of School Boards Concerning Student Safety with the Requirements of the Federal Gun-Free Schools Act and To Prohibit the Discharge of Firearms within 500 Feet of Public and Private School Properties

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

Sec. 1. 20-A MRSA §1001, sub-§9-A, as enacted by PL 1995, c. 322, §5, is amended to read:

9-A. Students expelled or suspended under the requirements of the federal Gun-Free Schools Act. The school boards shall adopt a policy for expelling a student who is determined to have brought a firearm, as defined in 18 United States Code, Section 921, to school or to have possessed a firearm at school and for referring the matter to the appropriate local law enforcement agency.

A. A student who is determined to have brought a firearm to school or to have possessed a firearm at school under this subsection must be expelled from school for a period of not less than one year, except that the school board may authorize the superintendent to modify the requirement for expulsion of a student on a case-by-case basis. A decision to change the placement of a student with a disability must be made in accordance with the federal Individuals With Disabilities Education Act, 20 United States Code, Section 1400 et seq.

B. Nothing in this subsection prevents a school board from:

(1) Offering instructional activities related to firearms or from allowing a firearm to be brought to school for instructional activities sanctioned by the district school board and for which the school board has adopted appropriate safeguards to ensure student safety; or

(2) Providing educational services in an alternative setting to a student who has been expelled.