

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

FIRST SPECIAL SESSION
September 27, 2011

SECOND REGULAR SESSION
January 4, 2012 to May 31, 2012

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
LAWS IS
SEPTEMBER 28, 2011

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 30, 2012

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

Augusta, Maine
2012

office of MaineCare services within the Department of Health and Human Services;

2. Solicit input from district attorneys regarding any instances of suspected or confirmed fraud in MaineCare reimbursement for transportation to and from health care providers and methadone treatment services at freestanding methadone clinics;

3. Review the requirements for member eligibility for transportation services, including verification of the member's place of residence, transportation reimbursement that is limited to the closest health care provider, requirements for requesting and scheduling transportation services and options and procedures for terminating transportation reimbursement for a member who violates department rules or requirements of a health care provider or freestanding methadone clinic;

4. Review, establish a timeline for and report on progress toward a regional transportation system for serving MaineCare members that uses transportation brokers, pays a flat rate per month per MaineCare member to the transportation broker and provides some degree of standardization across the State; and

5. Review options for limiting transportation reimbursement allowable under federal law and regulation and options for coordinating transportation services in order to decrease costs when transportation is needed for more than one type of MaineCare service.

See title page for effective date.

CHAPTER 143

H.P. 1317 - L.D. 1792

**Resolve, Regarding Legislative
Review of Portions of Chapter
421: Safety and Operation
Standards for Liquefied
Petroleum Gas (LPG)
Distribution Systems, a Major
Substantive Rule of the Public
Utilities Commission**

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 421: Safety and Operation Standards for Liquefied Petroleum Gas (LPG) Distribution Systems, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the commission:

1. Removes the definition of "customer";

2. Amends the rule to clarify that a liquefied petroleum gas system operator is any person who owns and engages in the transportation of liquefied petroleum gas through a jurisdictional liquefied petroleum gas system or a person who is contracted to serve as the operator by a person who owns and engages in the transportation of liquefied petroleum gas through a jurisdictional liquefied petroleum gas system;

3. Adds a provision that requires by July 1, 2012 liquefied petroleum gas suppliers to implement modified operation and maintenance procedures that include a "Red Tag" or hazardous equipment procedure for suspending service to a customer and marking the customer's system when a hazardous condition is noted that makes the continued delivery of liquefied petroleum gas unsafe;

4. Amends the rule so that liquefied petroleum gas system operators are not required to keep records for more than one year unless required by federal law;

5. Amends the rule so that liquefied petroleum gas system operators are not required to promote to excavators the "811" and "OK to Dig" notification process;

6. Amends the rule to allow the commission to grant a liquefied petroleum gas system operator 30 days in which to take corrective action before the commission issues a formal written notice of probable violation when an evaluation of an operator's records and facilities indicates that the operator is violating the rule or applicable state or federal law; and

7. Amends the rule by striking provisions related to requirements that apply when snow can be expected to cover any liquefied petroleum gas tank.

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

Effective March 30, 2012.

CHAPTER 144

S.P. 546 - L.D. 1647

Resolve, To Require Rulemaking Regarding Standing To Appeal in Proceedings before the Board of Environmental Protection and the Maine Land Use Regulation Commission

Sec. 1. Standing governing administrative appeals to the Maine Land Use Regulation Commission. Resolved: That the Maine Land Use Regulation Commission shall adopt rules to conform the standards for standing to appeal a decision to the commission to the judicial standards for standing to appeal a decision of the commission to court. Rules adopted pursuant to this section are major substantive rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A and are subject to legislative review by the joint standing committee of the Legislature having jurisdiction over judiciary matters; and be further

Sec. 2. Standing governing administrative appeals to the Board of Environmental Protection. Resolved: That the Board of Environmental Protection shall adopt rules to conform the standards for standing to appeal a decision to the board to the judicial standards for standing to appeal a decision of the board to court. Notwithstanding the Maine Revised Statutes, Title 38, section 341-H, rules adopted by the board pursuant to this section are major substantive rules under Title 5, chapter 375, subchapter 2-A and are subject to legislative review by the joint standing committee of the Legislature having jurisdiction over judiciary matters.

See title page for effective date.

CHAPTER 145

H.P. 739 - L.D. 1003

Resolve, To Assist Maine Schools To Obtain Federal Funds for Medically Necessary Services

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until

90 days after adjournment unless enacted as emergency; and

Whereas, this resolve is intended to provide guidance regarding those portions of the Department of Health and Human Services' MaineCare rules that relate to implementation of special education and related services provided through the Child Development Services System and school administrative units to eligible children served in these settings; and

Whereas, it is critical that the Department of Education and the Department of Health and Human Services work together with key stakeholders to develop refinements to existing MaineCare policies or develop new policies and guidance on billing procedures as soon as possible to ensure the provision of medically necessary services to students in school-based settings; and

Whereas, the Department of Education and the Department of Health and Human Services must begin the process of refining current MaineCare policies, developing guidance on billing procedures and preparing any necessary revisions to the state plan to submit to the Federal Government for review and approval prior to the adoption of rules governing Medicaid payment for medically necessary services to eligible children in school-based settings that qualify for reimbursement; 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

Sec. 1. Refinement of MaineCare policies. Resolved: That the Department of Education and the Department of Health and Human Services, referred to in this section as "the departments," shall work together to refine existing policies, develop new policies or prepare nonregulatory guidance on billing procedures, as appropriate, to ensure the provision of medically necessary services to students in school-based settings. The refinements to MaineCare policies must:

1. Be in compliance with federal law;
2. Provide local school districts with options and give them the authority to choose the best option with regard to local needs and capacities;
3. Take into consideration the input of stakeholders, including representatives of the Department of Education, the Department of Health and Human Services, the Child Development Services System, the Maine School Management Association, the Maine Administrators of Services for Children with Disabilities and special purpose private schools and agencies that are approved to provide early intervention or special education programs pursuant to the Maine Re-