

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

SECOND SPECIAL SESSION
September 29, 2021

SECOND REGULAR SESSION
January 5, 2022 to May 9, 2022

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 29, 2021

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 8, 2022

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

Augusta, Maine
2022

**CHAPTER 744
S.P. 621 - L.D. 1783**

An Act To Require Health Insurance Carriers and Pharmacy Benefits Managers To Appropriately Account for Cost-sharing Amounts Paid on Behalf of Insureds

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

Sec. 1. 24-A MRSA §4349, sub-§6 is enacted to read:

6. Cost-sharing amounts paid on behalf of covered person. The requirements of this subsection apply to the calculation of a covered person's contribution to any applicable cost-sharing or other out-of-pocket expense under a covered prescription drug benefit.

A. When calculating a covered person's contribution to any applicable cost-sharing or other out-of-pocket expense under a covered prescription drug benefit, a carrier or pharmacy benefits manager shall give credit for any waiver or discount of, or payment made by a 3rd party for, the amount of, or any portion of the amount of, the applicable cost-sharing or other out-of-pocket expense for the covered prescription drug that is either:

- (1) Without a generic equivalent; or
- (2) With a generic equivalent when the covered person has obtained access to the covered prescription drug through prior authorization, a step therapy override exception or other exception or appeal process.

B. A 3rd party that pays as financial assistance any amount, or portion of the amount, of any applicable cost-sharing or other out-of-pocket expense on behalf of a covered person for a covered prescription drug:

- (1) Shall notify the covered person prior to or within 7 days of the acceptance of the financial assistance of the total amount of assistance available and the duration for which it is available; and
- (2) May not condition the assistance on enrollment in a specific health plan or type of health plan, except as permitted under federal law.

C. If under federal law, with respect to a high-deductible health plan offered for use with a health savings account in accordance with the federal Internal Revenue Code, the application of paragraph A would result in ineligibility for a health savings account, this subsection applies only with respect to the deductible of such a plan after the covered

person has satisfied the minimum deductible under the federal Internal Revenue Code, Section 223, except for items or services that are determined to be preventive care pursuant to the federal Internal Revenue Code, Section 223(c)(2)(C), in which case the requirements of paragraph A apply regardless of whether the minimum deductible under the federal Internal Revenue Code, Section 223 has been satisfied.

Sec. 2. Application. The requirements of this Act apply to prescription drug benefits provided pursuant to a contract or policy of insurance by a carrier or a pharmacy benefits manager on behalf of a carrier on or after January 1, 2023.

See title page for effective date.

**CHAPTER 745
H.P. 1480 - L.D. 1994**

An Act To Establish the Progressive Treatment Program Fund

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

Sec. 1. 34-B MRSA §3873-B is enacted to read:

§3873-B. Progressive Treatment Program Fund

1. Progressive Treatment Program Fund established. The Progressive Treatment Program Fund, referred to in this section as "the fund," is established as a nonlapsing fund under the administration of the department.

2. Application of fund. The department shall use the money in the fund to reimburse the legal costs incurred by private entities to initiate progressive treatment programs in accordance with section 3873-A. A private entity seeking reimbursement must submit to the department an itemized bill of legal costs incurred to initiate the progressive treatment program. The maximum amount the department may reimburse a private entity for the legal costs to initiate a progressive treatment program is \$800.

3. Sources of fund. The following must be paid into the fund:

- A. All money appropriated for inclusion in the fund;
- B. Subject to any pledge, contract or other obligation, any money that the department receives in repayment of loans or advances from the fund;
- C. Subject to any pledge, contract or other obligation, all interest, dividends or other income from investment of the fund; and

D. Any other money, including federal money, deposited in the fund.

4. Rulemaking. The department may adopt rules as necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF**

Progressive Treatment Program Fund N948

Initiative: Provides funding for the Progressive Treatment Program Fund.

GENERAL FUND	2021-22	2022-23
All Other	\$0	\$160,000
GENERAL FUND TOTAL	\$0	\$160,000

See title page for effective date.

CHAPTER 746

S.P. 158 - L.D. 372

**An Act To Establish the
Hospital System Loan Fund
Program**

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to provide financial assistance to hospitals as soon as possible so that they may continue to provide vital services to the residents of this State; 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. Hospital System Loan Fund Program. Notwithstanding any provision of law to the contrary, the Hospital System Loan Fund Program, referred to in this section as "the program," is established within the Finance Authority of Maine, referred to in this section as "the authority," for the purpose of alleviating hardship on hospitals as a result of loan payments due as a result of the Medicare accelerated payment program in 42 United States Code, Section 1395g(f)(2)(C). For an applicant to participate in the program, the ap-

plicant must demonstrate to the satisfaction of the authority that the applicant faces a repayment to the Medicare program in 2022 pursuant to the Medicare accelerated payment program of more than \$12 million and less than \$18 million as of June 1, 2022; faces repayment obligations that would otherwise constitute a hardship to the hospital pursuant to 42 United States Code, Section 1395ddd(f)(1); and has less than 60 days' cash on hand as of May 1, 2022.

1. Hospital System Loan Fund. The Hospital System Loan Fund, referred to in this section as "the fund," is created as a nonlapsing, interest-earning, revolving fund to carry out the purposes of this section.

A. The authority may receive, invest and expend on behalf of the fund money from gifts, grants, bequests, loans and donations in addition to money appropriated or allocated by the State. Money received by the authority on behalf of the fund must be used for the purposes of this section. The fund must be maintained and administered by the authority.

B. Applications to participate in the program must be made available by the authority no later than June 1, 2022 and decisions must be made no later than July 1, 2022 and any loans must be issued by the authority by August 1, 2022.

C. The total amount of funding to be distributed by the authority from the fund may not exceed \$12 million. Multiple loan applications must result in a proration of funds.

D. The repayment term for a borrower is 24 months and the interest rate is zero. The loan must be repaid by a borrower in equal monthly installments beginning one month after receipt of funds. There is no penalty for early repayments. Any amounts remaining unpaid after 24 months must be recovered as a reduction to the first supplemental pool payment to the loan recipient made pursuant to rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 45.04 following the end of the 24-month repayment period.

E. A borrower receiving a loan shall participate in the Medicaid program during the term of the loan. Any unpaid amount of the loan must be repayable by the borrower within 30 days of the borrower's no longer being a Medicaid provider. The authority shall notify the Department of Health and Human Services of the loan recipients. The department shall notify the authority if during the term of the loan a borrower receiving the loan no longer participates in the Medicaid program.

F. Beginning August 1, 2024 and quarterly thereafter, the authority shall transfer the repaid principal balance to the Reserve for FAME Hospital - Hospital System Loans General Fund account established in section 2.