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

G. Costs and expenses incurred by the authority, including but not limited to maintaining, servicing and administering the fund, may be paid out of the fund.

2. Administration; rules. The program and the fund are administered by the authority. The authority may adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

3. Report. The authority shall report to the State Controller on loan disbursements and loan repayments annually, beginning on July 1, 2023, and upon the transfer of funds.

Sec. 2. Reserve for FAME Hospital - Hospital System Loans account established. Notwithstanding any provision of law to the contrary, the State Controller shall establish the Reserve for FAME Hospital - Hospital System Loans General Fund account.

Sec. 3. Transfer from MaineCare Stabilization Fund. Notwithstanding any provision of law to the contrary, at the close of fiscal year 2021-22, the State Controller shall transfer $12 million from the available balance in the MaineCare Stabilization Fund Other Special Revenue Funds account within the Department of Health and Human Services to the General Fund unappropriated surplus.

Sec. 4. Transfer from General Fund unappropriated surplus; FAME Hospital - Hospital System Loan Fund account. Notwithstanding any provision of law to the contrary, at the close of fiscal year 2021-22, the State Controller shall transfer $12 million from the unappropriated surplus of the General Fund to the Finance Authority of Maine's FAME Hospital - Hospital System Loan Fund Other Special Revenue Funds account.

Sec. 5. Transfer from Reserve for FAME Hospital - Hospital System Loans account; MaineCare Stabilization Fund. Notwithstanding any provision of law to the contrary, at the close of fiscal year 2024-25, the State Controller shall transfer the balance in the Reserve for FAME Hospital - Hospital System Loans General Fund account to the MaineCare Stabilization Fund Other Special Revenue Funds account within the Department of Health and Human Services.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

FINANCE AUTHORITY OF MAINE

Hospital - Hospital System Loans Fund N962

Initiative: Provides one-time allocation for the Hospital - Hospital System Loans Fund program.

OTHER SPECIAL REVENUE FUNDS	**2021-22**	**2022-23**
All Other	$0	$12,000,000
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	$12,000,000

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

Effective May 8, 2022.

CHAPTER 747

S.P. 625 - L.D. 1787

An Act To Improve the Quality and Affordability of Primary Health Care Provided by Federally Qualified Health Centers

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

Whereas, current MaineCare reimbursement rates for services delivered by federally qualified health centers are based on costs of providing services 20 years ago and have not been adjusted sufficiently to keep pace with increases in the costs, intensity and scope of services offered; and

Whereas, MaineCare reimbursement rates for services delivered by federally qualified health centers are substantially lower than the rates paid to certain primary care practices that offer fewer services and fewer programs designed to reduce the need for more expensive specialty and acute care than federally qualified health centers; and

Whereas, the Department of Health and Human Services is currently engaged in a process of radically revising its payment method for primary care services without considering the current inadequacy of federally qualified health center rates or the fact that federally qualified health centers are currently delivering many of the services and programs that the department is seeking to encourage by reforming its payment system; and

Whereas, the current design of the department's proposed payment reforms, which it intends to implement before the adjournment of the Second Regular Session of the 130th Legislature, will reduce payments to many federally qualified health centers; and

Whereas, in order to preserve and improve the advanced primary care model pioneered by federally qualified health centers in Maine, MaineCare payments for those services must be increased in order to reflect the current costs of providing services before the department establishes an alternative payment model for federally qualified health centers; 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. 22 MRSA §3174-V, first ¶, as amended by PL 2003, c. 20, Pt. K, §11, is further amended to read:

~~Beginning in fiscal year 2003-04, the~~ The reimbursement requirements ~~listed in subsections 1 and 2~~ set forth in this section apply to payments for certain federally qualified health centers as defined in 42 United States Code, Section 1395x, subsection(aa)(1993).

Sec. 2. 22 MRSA §3174-V, sub-§3 is enacted to read:

3. Updated base year option. No later than March 1, 2023, department shall provide an alternative, updated prospective payment method for each federally qualified health center that is the same as the prospective payment system set forth in 42 United States Code, Section 1396a(bb)(3), except that the base year for determining the costs of providing services must be the average of the reasonable costs incurred in the center's fiscal years ending in 2018 and 2019, adjusted for any change in scope adjustments approved since the base year and for inflation measured by the federally qualified health center market basket percentage published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services. Each federally qualified health center must be given the option to be reimbursed under the method provided by this subsection or under the method provided by federal law. After December 31, 2023, the department may update the base year described in this subsection to a more recent base year.

Sec. 3. 22 MRSA §3174-V, sub-§4 is enacted to read:

4. Change in scope adjustments. The department's method for adjusting for changes in the scope of services provided by a federally qualified health center under the payment model provided under subsection 3 or 42 United States Code, Section 1396a(bb)(3) must adjust the center's reimbursement rate to reflect changes in its costs of providing services whenever the center establishes that it has experienced a material change in either:

A. The type, intensity, duration or quantity of services provided; or

B. The characteristics of the population receiving a service that affect the cost of the service.

An adjustment under this subsection must reflect costs incurred retroactive to the date that the department received the federally qualified health center request for the adjustment, unless the department determines that the change in scope was due to conditions or events that were beyond the control of the federally qualified health center, in which case the adjustment must be retroactive to the more recent of the date that the federally qualified health center incurred the cost increases requiring an adjustment and the date that is one year prior to the date the department received the federally qualified health center change in scope request.

Sec. 4. 22 MRSA §3174-V, sub-§5 is enacted to read:

5. Alternative payment model. The following requirements apply to any alternative payment model developed by the department for payments to federally qualified health centers.

A. The alternative payment model must be consistent with the requirements of 42 United States Code, Section 1396a(bb).

B. As long as federal law continues to require that the department allow a federally qualified health center to elect to use the prospective payment system set forth in 42 United States Code, Section 1396a(bb)(3), the alternative payment model developed under this subsection must be an additional option and not a replacement of the updated base year option provided in subsection 3.

C. In developing the alternative payment model, the department shall consult with federally qualified health centers and provide a reasonable opportunity for dialogue and exchange of data before any rule implementing such a model is proposed.

Sec. 5. 22 MRSA §3174-V, sub-§6 is enacted to read:

6. Rulemaking. The department may adopt rules to implement subsections 3 to 5. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Rebasing process. The Department of Health and Human Services shall confer regularly with a statewide association of federally qualified health centers as it develops rates to implement the updated base year option required by the Maine Revised Statutes, Title 22, section 3174-V, subsection 3 and shall provide each federally qualified health center in the State with draft rates implementing the option and working papers supporting those rates. No later than February 1, 2023, the department shall issue final rate letters implementing the option for each federally qualified health center electing the option, effective March 1, 2023.

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers 0147

Initiative: Provides funding for the Department of Health and Human Services to provide for rebasing of federally qualified health center prospective payment system rates to 2018-2019 average actual costs inflated to the current year using the federally qualified health center market basket percentage as an alternative to the current payment method.

GENERAL FUND	2021-22	2022-23
All Other	$0	$1,629,628
GENERAL FUND TOTAL	$0	$1,629,628

FEDERAL EXPENDITURES FUND	2021-22	2022-23
All Other	$0	$3,727,929
FEDERAL EXPENDITURES FUND TOTAL	$0	$3,727,929

FEDERAL BLOCK GRANT FUND	2021-22	2022-23
All Other	$0	$151,027
FEDERAL BLOCK GRANT FUND TOTAL	$0	$151,027

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

Effective May 8, 2022.

CHAPTER 748

H.P. 1378 - L.D. 1868

An Act To Restore Funding to the State's Tobacco Prevention and Control 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 restores funding to Maine's Tobacco Prevention and Control Program, which recently had its funding reduced; and

Whereas, Maine has the highest adult smoking rate in the Northeast and, like the rest of the nation, is experiencing a youth tobacco use epidemic; and

Whereas, smoking is the leading preventable risk factor for many of the leading causes of death of Maine people, including cancer, heart disease, lung disease and stroke, and increases an individual's risk for severe illness from COVID-19; and

Whereas, tobacco use costs Maine $811 million in health care bills each year, including approximately $262 million in state Medicaid costs; each Maine household pays an additional $1,066 in state and federal taxes from smoking-caused government expenditures; and smoking costs Maine $647 million in productivity losses; and

Whereas, adequate funding for comprehensive tobacco prevention and control programs leads to greater reductions in smoking, and the longer states adequately invest in such programs, the greater the impact; and

Whereas, the reduction in funding has resulted in declines in funding for surveillance and evaluation, counter-marketing campaigns, eliminating tobacco-related health disparities and tobacco treatment; 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. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Maine Center for Disease Control and Prevention 0143

Initiative: Provides ongoing allocations to the Tobacco Prevention and Control Program to achieve a level of funding provided for the program that meets the funding level recommended for this State by the United States Department of Health and Human Services, Centers for Disease Control and Prevention pursuant to its determination for state tobacco control programs, as long as the available funds in the Fund for a Healthy Maine allow that level of funding.

FUND FOR A HEALTHY MAINE	2021-22	2022-23
All Other	$0	$7,500,000
FUND FOR A HEALTHY MAINE TOTAL	$0	$7,500,000

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

Effective May 8, 2022.