

MAINE STATE LEGISLATURE

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*State Of Maine
121st Legislature*

*Second Regular Session and
Second Special Session*

Bill Summaries

*Joint Standing Committee
on
Health and Human Services*

May 2004

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Members:

*Sen. Michael F. Brennan, Chair
Sen. John L. Martin
Sen. Carol Weston*

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Rep. Sarah O. Lewin*

Maine State Legislature



*Office Of Policy And Legal Analysis
Office Of Fiscal And Program Review*

*121st Maine Legislature
Second Regular Session and
Second Special Session*

Summary Of Legislation Before The Joint Standing Committees

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla/billsumm.htm).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses*
- CONF CMTE UNABLE TO AGREE Committee of Conference unable to agree; bill died*
- DIED BETWEEN BODIES..... House & Senate disagree; bill died*
- DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill*
- DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died*
- EMERGENCY Enacted law takes effect sooner than 90 days*
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote*
- FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote*
- FAILED MANDATE ENACTMENT Bill imposing local mandate failed to get 2/3 vote*
- NOT PROPERLY BEFORE THE BODY Ruled out of order by the presiding officers; bill died*
- INDEF PP Bill Indefinitely Postponed*
- ONTP..... Ought Not To Pass report accepted*
- OTP-ND Committee report Ought To Pass In New Draft*
- P&S XXX..... Chapter # of enacted Private & Special Law*
- PASSED..... Joint Order passed in both bodies*
- PUBLIC XXX..... Chapter # of enacted Public Law*
- RESOLVE XXX..... Chapter # of finally passed Resolve*
- UNSIGNED..... Bill held by Governor*
- VETO SUSTAINED Legislature failed to override Governor's Veto*

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

David C. Elliott, Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Health and Human Services

Enacted Law Summary

Public Law 2003, chapter 564 establishes a review team and requirements for prior approval of a behavioral treatment program involving the use of aversive or severely intrusive techniques for a child under 18 years of age with mental retardation or autism and for prior approval of the use of safety devices for a child under 18 years of age with mental retardation or autism.

LD 1747 **An Act To Amend the Medicaid Drug Rebate Program and the Elderly Low-cost Drug Program** **PUBLIC 611**

<u>Sponsor(s)</u> CRAVEN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-778
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LD 1747 proposed to make changes to the Medicaid drug rebate program and to the elderly low-cost drug program to clarify the out-of-pocket cost to participating members.

Committee Amendment "A" (H-778) proposed to reorganize the law regarding basic, supplemental and catastrophic benefits in the elderly low-cost drug program. It proposed to add \$2 to the recipient's copayment in the catastrophic program.

Enacted Law Summary

Public Law 2003, chapter 611 makes changes to the Medicaid drug rebate program and to the elderly low-cost drug program to clarify the out-of-pocket cost to participating members and adds \$2 to the recipient's copayment in the catastrophic program.

LD 1748 **An Act To Amend the Rule-making Authority of the Department of Human Services to Ensure Cost-effective Operation of State Medical Services Programs and Compliance with Federal Requirements** **PUBLIC 612
EMERGENCY**

<u>Sponsor(s)</u> O'NEIL		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-777
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LD 1748 proposed to provide the authority for 2 bureaus in the Department of Human Services to adopt rules having retroactive application. It proposed to allow the Bureau of Medical Services to do so to maximize revenue sources and to meet deappropriations. It proposed to allow the Bureau of Family Independence to do so to comply with federal regulations or to conform to the state plan as filed with the Federal Government.

Committee Amendment "A" (H-777) proposed to provide the authority for 2 bureaus in the Department of Human Services, the Bureau of Medical Services and the Bureau of Family Independence, to adopt rules having retroactive application in certain specific circumstances for a period up to 8 calendar quarters. It proposed to allow the Bureau of Medical Services to do so to maximize available federal revenue sources through the federal

Joint Standing Committee on Health and Human Services

Medicaid program or to conform to the state Medicaid plan. It proposed to allow both bureaus to make retroactive rules regarding the MaineCare, Temporary Assistance for Needy Families and food stamp programs to comply with federal regulations and to conform to the state plan as filed with the Federal Government. The rules, as proposed, would not be allowed to reduce or otherwise negatively affect reimbursement or other payments to providers that they are entitled to receive under previously applicable rules. Reimbursement or payment under the new rules would have to be equal to or greater than reimbursement under the old rules. The rules would not be allowed to reduce or otherwise negatively affect reimbursement or other payments, benefits or services that beneficiaries are entitled to have covered or paid under the old rules. Reimbursement or other payments, benefits or services under the amended rules would have to be equal to or greater than under the prior rules. The amendment proposed to require legislative approval for retroactive application of any rule that has an adverse financial impact on any MaineCare provider or member, Temporary Assistance for Needy Families program or food stamp recipient or beneficiary or recipient of any other program administered by the department. The amendment proposed to designate the rules as routine technical rules unless the underlying statutory authority for the rule already designates the rule as a major substantive rule. The amendment proposed to require the department to report on implementation and the effect of implementation by January 15, 2005 and 2006. Under the amendment, the authority to adopt rules having a retroactive application would be repealed on July 1, 2006.

Enacted Law Summary

Public Law 2003, chapter 612 provides authority for 2 bureaus in the Department of Human Services, the Bureau of Medical Services and the Bureau of Family Independence, to adopt rules having retroactive application in certain specific circumstances for a period up to 8 calendar quarters. The Bureau of Medical Services may do so to maximize available federal revenue sources through the federal Medicaid program or to conform to the state Medicaid plan. Both bureaus may make retroactive rules regarding the MaineCare, Temporary Assistance for Needy Families and food stamp programs to comply with federal regulations and to conform to the state plan as filed with the Federal Government. The rules may not reduce or otherwise negatively affect reimbursement or other payments to providers that they are entitled to receive under previously applicable rules. Reimbursement or payment under the new rules must be equal to or greater than reimbursement under the old rules. The rules may not reduce or otherwise negatively affect reimbursement or other payments, benefits or services that beneficiaries are entitled to have covered or paid under the old rules. Reimbursement or other payments, benefits or services under the amended rules must be equal to or greater than under the prior rules. The law requires legislative approval for retroactive application of any rule that has an adverse financial impact on any MaineCare provider or member, Temporary Assistance for Needy Families program or food stamp recipient or beneficiary or recipient of any other program administered by the department. The law designates the rules as routine technical rules unless the underlying statutory authority for the rule already designates the rule as a major substantive rule. The law requires the department to report on implementation and the effect of implementation by January 15, 2005 and 2006. Under the law, the authority to adopt rules having a retroactive application is repealed on July 1, 2006.

Public Law 2003, chapter 612 was enacted as an emergency measure, effective April 9, 2004.