

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON INSURANCE AND
FINANCIAL SERVICES**

August 2017

STAFF:

COLLEEN MCCARTHY REID, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670
<http://legislature.maine.gov/legis/opla/>

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STATE OF MAINE

128TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 128th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER..... carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE..... emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT..... legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY..... ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 128th Legislature is Wednesday, November 1, 2017. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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eliminating, restricting or limiting the payment of a commission to a producer for enrollment of an individual in a health plan during any annual enrollment period on the basis that the producer was not paid a commission for the enrollment of the same individual by the producer in a prior plan year during a special enrollment period.

The provisions of Public Law 2017, chapter 60 apply to health plans issued or renewed on or after January 1, 2018.

LD 389 An Act To Promote Access to Financial Institutions by Entities That Are Authorized under State Law CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMPER J		

This bill allows state-chartered credit unions to procure private insurance in lieu of share insurance from the National Credit Union Administration to facilitate the provision of financial services to registered dispensaries or registered caregivers authorized under the Maine Medical Use of Marijuana Act, to entities licensed under the Marijuana Legalization Act and to their employees.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 445 An Act To Encourage Maine Consumers To Comparison-shop for Certain Health Care Procedures and To Lower Health Care Costs PUBLIC 232

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHITTEMORE R PICCHIOTTI J	OTP-AM	S-236

This bill requires all carriers offering health plans in the State, beginning January 1, 2018, to provide a shared savings incentive program as a component of all health plans, except health plans offered through the federally facilitated marketplace established pursuant to the federal Affordable Care Act. The bill establishes the shared savings incentive program for enrollees who elect to receive a comparable health care service that costs less than the average price paid for that service by a carrier. The bill defines "comparable health care service" as a service for which a carrier offers a shared savings incentive payment and includes, at a minimum, a health care service in the following seven categories: physical and occupational therapy services; obstetrical and gynecological services; radiology and imaging services; laboratory services; infusion therapy services; inpatient and outpatient surgical procedures; and outpatient, nonsurgical diagnostic tests and procedures. If an enrollee shops for services, the bill requires a carrier to pay that enrollee a shared savings incentive payment of at least 50% of the difference between the average amount for that comparable health care service and the amount paid, except that a payment is not required if the saved cost is \$50 or less.

The bill authorizes a carrier to establish its own methodology for calculating the average price paid by that carrier under its shared savings incentive program. If an enrollee elects to receive health care services from an out-of-network provider that results in a shared savings incentive payment, a carrier shall apply the amount paid for the comparable health care service toward the enrollee's cost sharing as specified in the enrollee's health plan as if the health care services were provided by a network provider.

The bill also requires carriers to provide certain information to the Department of Professional and Financial Regulation, Bureau of Insurance on an annual basis relating to the payments made to enrollees, the use of health care services for which payments are provided and the saved costs if an enrollee elects to receive health care services from a provider that cost less than the average cost for a particular admission, procedure or service. The Superintendent of Insurance is required to report aggregate information from all carriers to the Legislature on an

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annual basis.

This bill also requires providers to notify patients of their right to shop for certain health care services pursuant to a carrier's shared savings incentive program.

Committee Amendment "A" (S-236)

This amendment replaces the bill. The amendment requires carriers offering health plans in the State, beginning January 1, 2019, to establish a small group health plan design, for all small group health plans compatible with health savings accounts authorized under federal law, in which enrollees are directly incentivized to shop for comparable health care services from low-cost, high-quality providers. The amendment defines "comparable health care service" as a nonemergency, outpatient health care service in the following four categories: physical and occupational therapy services; radiology and imaging services; laboratory services; and infusion therapy services. The amendment requires the Superintendent of Insurance to study and evaluate the incentive programs used by carriers and report annually to the Legislature beginning March 1, 2020. These provisions are repealed on January 1, 2024.

Beginning January 1, 2018, the amendment requires carriers to develop and make available a website and toll-free telephone number to allow enrollees to obtain information about estimated costs for obtaining comparable health care services from network providers. The amendment permits a carrier to direct enrollees to the publicly accessible health care costs website of the Maine Health Data Organization.

Beginning January 1, 2019, the amendment requires carriers upon request by an enrollee to apply the amount paid for a comparable health care service provided by an out-of-network provider toward the enrollee's member cost sharing as specified in the enrollee's health plan as if the health care services were provided by a network provider, as long as the cost of the out-of-network service is the same or less than the statewide average payment for the same service based on data reported on the publicly accessible health care costs website of the Maine Health Data Organization. A carrier may use the average network price paid by the carrier in lieu of the statewide average payment for the same service based on data reported on the publicly accessible health care costs website of the Maine Health Data Organization. The amendment defines an out-of-network provider as a provider located in Maine, Massachusetts or New Hampshire that is enrolled in the MaineCare program as a provider and that participates in Medicare. This provision is repealed January 1, 2024.

The amendment also requires providers to notify patients of their right to obtain comparable health care services from a different provider at the time a provider makes a referral or recommendation for a comparable health care service during an in-person visit.

Enacted Law Summary

Public Law 2017, chapter 232 requires carriers offering health plans in the State, beginning January 1, 2019, to establish a small group health plan design, for all small group health plans compatible with health savings accounts authorized under federal law, in which enrollees are directly incentivized to shop for comparable health care services from low-cost, high-quality providers. The law defines "comparable health care service" as a nonemergency, outpatient health care service in the following four categories: physical and occupational therapy services; radiology and imaging services; laboratory services; and infusion therapy services. The law requires the Superintendent of Insurance to study and evaluate the incentive programs used by carriers and report annually to the Legislature beginning March 1, 2020. These provisions are repealed on January 1, 2024.

Beginning January 1, 2018, the law requires carriers to develop and make available a website and toll-free telephone number to allow enrollees to obtain information about estimated costs for obtaining comparable health care services from network providers. As an alternative, the law allows a carrier to direct enrollees to the publicly accessible health care costs website of the Maine Health Data Organization.

Beginning January 1, 2019, the law requires carriers upon request by an enrollee to apply the amount paid for a

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comparable health care service provided by an out-of-network provider toward the enrollee's member cost sharing as specified in the enrollee's health plan as if the health care services were provided by a network provider, as long as the cost of the out-of-network service is the same or less than the statewide average payment for the same service based on data reported on the publicly accessible health care costs website of the Maine Health Data Organization. A carrier may use the average network price paid by the carrier in lieu of the statewide average payment for the same service based on data reported on the publicly accessible health care costs website of the Maine Health Data Organization. The law defines an out-of-network provider as a provider located in Maine, Massachusetts or New Hampshire that is enrolled in the MaineCare program as a provider and that participates in Medicare. This provision is repealed January 1, 2024.

Public Law 2017, chapter 232 also requires providers to notify patients of their right to obtain comparable health care services from a different provider at the time a provider makes a referral or recommendation for a comparable health care service during an in-person visit.

LD 453 Resolve, Regarding Insurance Coverage for Alternative Therapies for **CARRIED OVER
Addiction and Recovery**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GRATWICK G BROOKS H		

This resolve requires the Superintendent of Insurance to convene interested parties to evaluate commercial insurance coverage for addiction treatment and recovery alternative therapies and report findings and recommendations to the Joint Standing Committee on Insurance and Financial Services before January 15, 2018. The resolve authorizes the Joint Standing Committee on Insurance and Financial Services to submit a bill to the Second Regular Session of the 128th Legislature based upon the report.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

LD 502 An Act Regarding Hospital Charges and Statements **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHITTEMORE R FOLEY R	ONTP	

This bill prohibits a hospital from billing an uninsured patient or a patient not covered under a health plan operating under a network agreement between the hospital and the patient's health plan for any inpatient or outpatient service or procedure at a level that exceeds 120% of the average allowable reimbursement rate under Medicare for that service or procedure. The bill requires a carrier to disclose to a prospective enrollee prior to enrollment if a health plan has a provider network that operates under a provider agreement between the participating provider and carrier that subjects an enrollee to the terms of the agreement upon enrollment and that requires reimbursement for any hospital inpatient and outpatient services and procedures at a level that exceeds 150% of the average allowable reimbursement rate under Medicare for that service or procedure. For an enrollee enrolled in that type of health plan, a carrier may not deny the enrollee covered by a health plan the right to audit any hospital bill or explanation of benefits form.