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Legislative Document

No. 226

S.P. 72

In Senate, January 24, 2017

**An Act To Protect and Improve the Health of Maine Citizens and
the Economy of Maine**

(EMERGENCY)

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.

1 (2) If the commissioner reasonably anticipates the cost of the program to exceed
2 the budget of the population described in this paragraph, the commissioner shall
3 lower the maximum eligibility level to the extent necessary to provide coverage
4 to as many persons as possible within the program budget.

5 (3) The commissioner shall give at least 30 days' notice of the proposed change
6 in maximum eligibility level to the joint standing committee of the Legislature
7 having jurisdiction over appropriations and financial affairs and the joint standing
8 committee of the Legislature having jurisdiction over health and human services
9 matters; ~~and~~

10 **Sec. A-2. 22 MRSA §3174-G, sub-§1, ¶G,** as enacted by PL 2011, c. 380, Pt.
11 KK, §3, is amended to read:

12 G. A person who is a noncitizen legally admitted to the United States to the extent
13 that coverage is allowable by federal law if the person is:

14 (1) A woman during her pregnancy and up to 60 days following delivery; or

15 (2) A child under 21 years of age; ~~and~~

16 **Sec. A-3. 22 MRSA §3174-G, sub-§1, ¶H** is enacted to read:

17 H. No later than 180 days after the effective date of this paragraph, a person who is
18 not otherwise eligible for assistance under this chapter and who is under 65 years of
19 age, not pregnant, not entitled to or enrolled for benefits under Part A of subchapter
20 XVIII, Title 18 of the Social Security Act or enrolled for benefits under Part B of
21 subchapter XVIII, Title 18 of the Social Security Act when the person's income is at
22 or below 133% plus 5% of the nonfarm income official poverty line for the
23 applicable family size. The department shall provide to such person, at a minimum,
24 the same scope of medical assistance as is provided to a person described in
25 paragraph E.

26 (1) Cost sharing, including copayments, for coverage established under this
27 paragraph may not exceed the maximum allowable amounts authorized under
28 section 3173-C, subsection 7.

29 (2) The department may, upon obtaining any necessary federal or state
30 approvals, limit eligibility under this paragraph for medical assistance to persons
31 with income that does not exceed 100% plus 5% of the nonfarm income official
32 poverty line for the applicable family size if the department uses any available
33 federal and state allocations, appropriations or other available funding achieved
34 through the limiting of eligibility to the extent available to ensure that persons
35 otherwise described in this paragraph, with income between 100% plus 5% and
36 133% plus 5%, of the nonfarm income official poverty line for the applicable
37 family size, have access to medical assistance at a cost for premiums that does
38 not exceed 2% of family income and a cost for copayments, coinsurance
39 deductibles and any other cost sharing that does not exceed 5% of the family's
40 income.

41 (3) The department shall adopt rules, including emergency rules pursuant to Title
42 5, section 8054, if necessary, to implement this paragraph in a timely manner to

1 ensure that the persons described in this paragraph are enrolled for and eligible to
2 receive services no later than 180 days after the effective date of this paragraph.
3 Rules adopted pursuant to this subparagraph are routine technical rules as defined
4 by Title 5, chapter 375, subchapter 2-A except that rules adopted to implement
5 subparagraph (2) are major substantive rules as defined by Title 5, chapter 375,
6 subchapter 2-A.

7 (4) The department may contract with health insurance carriers authorized in this
8 State under Title 24-A to provide coverage as authorized in this paragraph to
9 maximize savings and to ensure access to and quality of services.

10 **PART B**

11 **Sec. B-1. Waivers, state plan amendments or other approvals.** Within 90
12 days of the effective date of the Maine Revised Statutes, Title 22, section 3174-G,
13 subsection 1, paragraph H, the Commissioner of Health and Human Services shall submit
14 any necessary waivers and state plan amendments or seek other necessary approvals to
15 implement Title 22, section 3174-G, subsection 1, paragraph H. The commissioner shall
16 act expeditiously to achieve implementation of Title 22, section 3174-G, subsection 1,
17 paragraph H. Any waiver, state plan amendment or other method of approval submitted
18 pursuant to this section must include provisions to achieve the following:

19 1. Positive incentives for persons who participate in wellness initiatives, health home
20 initiatives and other initiatives aimed at reducing and managing substance use disorders,
21 mental health disorders or chronic diseases, including, but not limited to, diabetes and
22 heart disease, as well as programs aimed at reducing risk factors for cancer or chronic
23 diseases, including, but not limited to, obesity and smoking;

24 2. Prevention initiatives to address chronic health conditions, including adequately
25 informing newly eligible persons under Title 22, section 3174-G, subsection 1, paragraph
26 H of primary care providers participating in the MaineCare program and accepting
27 patients under the MaineCare program and providing incentives for adopting healthy
28 behaviors through reduced cost sharing for accessing appropriate, clinically
29 recommended services, including preventative visits, annual wellness exams and
30 preventative health care services. The incentives must use relevant, evidence-based
31 research and resources and waive or reduce premiums or copayments for participation in
32 health improvement programs or activities;

33 3. A mechanism by which the Department of Health and Human Services may pay
34 directly to health care providers and private health insurance carriers any direct payment
35 of premium assistance and cost sharing that is due to the health care providers or health
36 insurance carriers that is beyond the maximum amount allowed by federal law and
37 regulation;

38 4. A plan for achieving savings by:

39 A. Ensuring that coverage provided under Title 22, section 3174-G, subsection 1,
40 paragraph H reduces costs for health care that would otherwise be incurred by the
41 Department of Corrections; and

1 B. Ensuring that coverage provided under Title 22, section 3174-G, subsection 1,
2 paragraph H reduces costs for health care that would otherwise be incurred after the
3 release of a prisoner from a state correctional facility or county or regional jail as a
4 result of untreated mental health and substance use disorders, including assisting
5 prisoners prior to release with applying for coverage under Title 22, section 3174-G,
6 subsection 1, paragraph H and ensuring that applications are made for coverage under
7 Title 22, section 3174-G, subsection 1, paragraph H for inpatient hospital services
8 prior to release.

9 **Sec. B-2. Reduction of federal medical assistance percentage.** Upon
10 notification to the Department of Health and Human Services or other public declaration
11 by the United States Department of Health and Human Services, Centers for Medicare
12 and Medicaid Services that the enhanced federal medical assistance percentage that
13 applies with respect to amounts expended for medical assistance for persons newly
14 eligible for Medicaid described in 42 United States Code, Section
15 1396a(a)(10)(A)(i)(VIII) is reduced below the amounts specified in 42 United States
16 Code, Section 1396d(y)(1), the Commissioner of Health and Human Services shall notify
17 the joint standing committee of the Legislature having jurisdiction over health and human
18 services matters and the joint standing committee of the Legislature having jurisdiction
19 over appropriations and financial affairs. The commissioner shall propose a plan to
20 maintain coverage of those persons described in the Maine Revised Statutes, Title 22,
21 section 3174-G, subsection 1, paragraph H to the greatest extent feasible. The
22 committees of jurisdiction may propose any necessary legislation to address any decrease
23 in funding or other necessary changes.

24 **Sec. B-3. Interim reporting.** Between the effective date of the Maine Revised
25 Statutes, Title 22, section 3174-G, subsection 1, paragraph H and the dates of approval of
26 any federal or state approvals necessary for implementation of Title 22, section 3174-G,
27 subsection 1, paragraph H, the Department of Health and Human Services shall provide
28 monthly reports to the joint standing committee of the Legislature having jurisdiction
29 over health and human services matters and to the joint standing committee of the
30 Legislature having jurisdiction over appropriations and financial affairs on the progress of
31 implementation of that paragraph, any issues that might delay implementation or act as
32 barriers to implementation and any possible solutions to those issues and barriers.

33 **Sec. B-4. Reporting on implementation status.** No later than one year after
34 the effective date of the Maine Revised Statutes, Title 22, section 3174-G, subsection 1,
35 paragraph H, the Commissioner of Health and Human Services shall report to the joint
36 standing committee of the Legislature having jurisdiction over health and human services
37 matters and to the joint standing committee of the Legislature having jurisdiction over
38 appropriations and financial affairs on the status of implementation of Title 22, section
39 3174-G, subsection 1, paragraph H, including information on enrollment, costs, revenues
40 generated from the Federal Government and other revenues, anticipated state savings and
41 other issues pertinent to implementation.

42 **Sec. B-5. Reporting of revenues.** The Department of Administrative and
43 Financial Services, Maine Revenue Services shall report to the joint standing committee
44 of the Legislature having jurisdiction over appropriations and financial affairs no later

1 than 60 days following the end of the first 12 months of enrollment under the Maine
2 Revised Statutes, Title 22, section 3174-G, subsection 1, paragraph H regarding any new
3 revenues, including any increase in federal medical assistance payments resulting from
4 coverage provided under Title 22, section 3174-G, subsection 1, paragraph H. Prior to
5 the end of fiscal year 2018-19, the State Controller shall transfer any amounts identified
6 under this section to the MaineCare Stabilization Fund established under Title 22, section
7 3174-KK.

8 **Sec. B-6. Evaluation by legislative office.** Within 90 days after the end of the
9 first 12 months of enrollment under the Maine Revised Statutes, Title 22, section 3174-G,
10 subsection 1, paragraph H, the Office of Fiscal and Program Review shall independently
11 review reports required pursuant to sections 5 and 7 of this Part and report to the joint
12 standing committee of the Legislature having jurisdiction over health and human services
13 matters and the joint standing committee of the Legislature having jurisdiction over
14 appropriations and financial affairs on its determination of the savings and new revenues,
15 if any, resulting from implementation of Title 22, section 3174-G, subsection 1,
16 paragraph H. This report must also include information about the amount of federal
17 funds received by the State as a result of coverage authorized under that paragraph.

18 **Sec. B-7. Report.** The Commissioner of Health and Human Services, the
19 Commissioner of Corrections and any state agency that recognizes savings as a result of
20 implementation of the Maine Revised Statutes, Title 22, section 3174-G, subsection 1,
21 paragraph H shall report within 60 days prior to the end of the first 12 months of
22 enrollment under Title 22, section 3174-G, subsection 1, paragraph H to the joint standing
23 committee of the Legislature having jurisdiction over health and human services matters,
24 the joint standing committee of the Legislature having jurisdiction over appropriations
25 and financial affairs and the joint standing committee of the Legislature having
26 jurisdiction over criminal justice and public safety matters on the amount of General
27 Fund savings and other fund savings resulting from coverage provided under that
28 paragraph, including, but not limited to, savings to substance abuse and mental health
29 programs; medical services provided to persons in the care and custody of or upon release
30 by the Department of Corrections or a county jail or regional jail; reimbursement to cities
31 and towns for general assistance provided under Title 22, chapter 1161; services provided
32 for individuals between 21 and 64 years of age who are currently eligible for the
33 MaineCare program under medically needy, spend-down criteria; services provided under
34 the Maine Medicaid Section 1115 Health Care Reform Demonstration for Individuals
35 with HIV/AIDS; services provided for parents participating in family reunification
36 activities under Title 22, chapter 1071; services provided to individuals awaiting a
37 MaineCare program disability determination for whom the applications are subsequently
38 granted; services provided to individuals who previously would have pursued a disability
39 determination to qualify for coverage; services provided under the State's breast and
40 cervical cancer treatment program; and other programs in which savings are achieved.
41 The report must include the amount of savings realized during that fiscal year and the
42 preceding fiscal year by service area or program and the amount of savings projected to
43 be achieved during the remainder of that fiscal year and during the next fiscal year by
44 service area or program.

1 any waivers and state plan amendments to the Federal Government required as a result of
2 expanding health care coverage.