



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1052

S.P. 312

In Senate, February 28, 2019

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### **An Act To Require Regular and Transparent Review of MaineCare Reimbursement Rates**

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator SANBORN, H. of Cumberland.  
Cosponsored by Representative FARNSWORTH of Portland and  
Senators: CLAXTON of Androscoggin, MOORE of Washington, TIMBERLAKE of  
Androscoggin, Representatives: BICKFORD of Auburn, CRAVEN of Lewiston, GATTINE of  
Westbrook, GRIFFIN of Levant, MADIGAN of Waterville.

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

2 **Sec. 1. 5 MRSA §12004-I, sub-§36-F** is enacted to read:

3 **36-F.**

4 <u>Human Services</u>	<u>MaineCare</u>	<u>Expenses Only</u>	<u>22 MRSA §3122</u>
5	<u>Reimbursement</u>		
6	<u>Rates Review</u>		
7	<u>Advisory Committee</u>		

8 **Sec. 2. 22 MRSA c. 852** is enacted to read:

9 **CHAPTER 852**

10 **MAINECARE REIMBURSEMENT RATES REVIEW**

11 **§3121. Review of MaineCare reimbursement rates**

12 **1. Review schedule.** No later than January 1, 2020, the department shall establish a  
13 schedule for ongoing review of reimbursement rates under MaineCare so that each  
14 reimbursement rate is reviewed at least every 3 years. The review schedule must be  
15 submitted to the joint standing committees of the Legislature having jurisdiction over  
16 health and human services matters and appropriations and financial affairs. The schedule  
17 may be altered in response to recommendations by the advisory committee established  
18 under section 3122 or the Legislature.

19 **2. Exclusion from review.** The department shall review under subsection 1 each  
20 service reimbursed by MaineCare, except that it may exclude services with  
21 reimbursement levels that are:

22 A. Reviewed or updated on a regular basis according to a process established in state  
23 or federal rule or law;

24 B. Based on cost;

25 C. Contracted through a managed care or capitated rate; or

26 D. Based on regularly updated Medicare rates.

27 The review schedule submitted to the joint standing committees pursuant to subsection 1  
28 must include a list of those rates not subject to regular review.

29 **3. Review.** Each review of a service undertaken by the department pursuant to  
30 subsection 2 must include:

31 A. An analysis of the access, service, quality and utilization of the service;

32 B. A comparison of rates with other available reimbursement rates, including  
33 Medicare, insurance or private pay rates;

34 C. Provider retention of employees;

- 1           D. Acceptable industry productivity standards;
- 2           E. Participation and survey of current provider costs;
- 3           F. Consideration of service access and cost in rural areas;
- 4           G. Consideration of needs and costs for specific population groups; and
- 5           H. Input from the advisory committee.

6           The department shall work with the advisory committee and the providers of the service  
7           being reviewed to determine responses and strategies to the review findings.

8           **4. Annual report.** The department shall provide an annual report, no later than  
9           December 1st of each year, beginning in 2020, that includes the results of the review of  
10           each service reviewed pursuant to subsection 2 in the most recent year, including the  
11           analysis under subsection 3 and any actions taken in response to the review, and any  
12           changes to rates reviewed by the department pursuant to this chapter, to the joint standing  
13           committees of the Legislature having jurisdiction over health and human services matters  
14           and appropriations and financial affairs. The department shall also submit the report to  
15           the Governor together with recommendations for rate increases for consideration for  
16           inclusion in the biennial budget.

17           **§3122. Advisory committee**

18           The MaineCare Reimbursement Rates Review Advisory Committee, referred to in  
19           this chapter as "the advisory committee," is established as provided in Title 5, section  
20           12004-I, subsection 36-F to make recommendations to the department regarding review  
21           of MaineCare reimbursement rates pursuant to section 3121.

22           **1. Membership.** The advisory committee has the following 21 voting members and  
23           one ex officio, nonvoting member:

- 24           A. Six members appointed by the President of the Senate:
  - 25           (1) A representative of providers of community behavioral health services  
26           recommended by a statewide association of providers of behavioral health care  
27           services;
  - 28           (2) A representative of hospitals providing services to MaineCare members  
29           recommended by a statewide association representing hospitals;
  - 30           (3) A representative of providers of nonemergency medical transportation  
31           services to MaineCare members;
  - 32           (4) A representative of a rural health clinic;
  - 33           (5) A representative of home health care providers recommended by a statewide  
34           association representing home health care providers; and
  - 35           (6) A representative of providers of durable medical equipment recommended by  
36           a statewide association of durable medical equipment providers;
- 37           B. Six members appointed by the leader of the largest minority party in the Senate:

- 1           (1) A representative of primary care physicians serving MaineCare members  
2           recommended by a statewide association representing physicians;
- 3           (2) A representative of dentists serving MaineCare members recommended by a  
4           statewide association representing dentists;
- 5           (3) A representative of federally qualified health centers recommended by a  
6           statewide association of federally qualified health centers;
- 7           (4) A representative of nonmedical home and community-based services;
- 8           (5) A representative of providers serving MaineCare members with intellectual  
9           disabilities or autism recommended by a statewide association of providers of  
10           services to individuals with intellectual disabilities or autism; and
- 11           (6) A MaineCare member living with a chronic behavioral health condition or a  
12           family member or guardian of a MaineCare member living with a chronic  
13           behavioral health condition;

14           C. Five members appointed by the Speaker of the House of Representatives:

- 15           (1) A representative of providers of substance use disorder services  
16           recommended by a statewide association representing behavioral health services;
- 17           (2) A representative of psychiatric physicians recommended by a statewide  
18           association representing psychiatric physicians;
- 19           (3) A representative of ambulatory surgical centers;
- 20           (4) A representative of hospice providers recommended by the Maine Hospice  
21           Council established in section 8611; and
- 22           (5) A representative of long-term care facilities recommended by a statewide  
23           association representing nursing facilities or assisted living facilities;

24           D. Four members appointed by the leader of the largest minority party in the House  
25           of Representatives:

- 26           (1) A family member of a child with disabilities receiving MaineCare services;
- 27           (2) A representative of pharmacists serving MaineCare members recommended  
28           by a statewide association representing pharmacists;
- 29           (3) A representative of nurses recommended by a statewide association  
30           representing nurses; and
- 31           (4) A representative of physical therapists or occupational therapists  
32           recommended by a statewide association representing physical therapists or  
33           occupational therapists; and

34           E. The commissioner or the commissioner's designee, who is an ex officio,  
35           nonvoting member of the advisory committee and shall attend meetings.

36           **2. Terms of office.** Each appointed member of the advisory committee serves a 4-  
37           year term and may be reappointed. A member is no longer qualified to serve if that  
38           member no longer meets the qualifications of appointment.



1       having jurisdiction over health and human services matters and appropriations and  
2       financial affairs. The advisory committee is staffed by the Department of Health and  
3       Human Services.