



131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2271

S.P. 987

In Senate, March 14, 2024

**An Act to Implement the Recommendations of the Task Force to
Evaluate the Impact of Facility Fees on Patients to Improve Facility
Fee Transparency and Notification and to Prohibit Facility Fees for
Certain Services**

Reported by Senator BAILEY of York for the Joint Standing Committee on Health Coverage, Insurance and Financial Services pursuant to Public Law 2023, chapter 410, section 2.

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed pursuant to Joint Rule 218.

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

DAREK M. GRANT
Secretary of the Senate

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

2 **Sec. 1. 22 MRSA §1718-B, sub-§1, ¶A-1** is enacted to read:

3 A-1. "Facility fee" means a fee charged or billed by a health care entity for outpatient
4 services provided in a hospital-based facility that is:

5 (1) Intended to compensate the hospital or health system for the operational
6 expenses of the hospital or health system; and

7 (2) Separate and distinct from a professional fee.

8 **Sec. 2. 22 MRSA §1718-B, sub-§1, ¶C** is enacted to read:

9 C. "Hospital-based facility" means a facility that is owned or operated, in whole or in
10 part, by a hospital or health system where hospital services or professional medical
11 services are provided.

12 **Sec. 3. 22 MRSA §1718-B, sub-§1, ¶D** is enacted to read:

13 D. "Professional fee" means a fee charged or billed by a health care entity for
14 professional medical services provided in a hospital-based facility.

15 **Sec. 4. 22 MRSA §1718-B, sub-§2, ¶E** is enacted to read:

16 E. A health care entity shall prominently display in a location that is readily accessible
17 to a patient, including a patient waiting area, and on the health care entity's publicly
18 accessible website the following information:

19 (1) Whether the health care entity is a hospital-based facility and, if so, the name
20 of the hospital or health system and whether the health care entity charges a facility
21 fee;

22 (2) If a facility fee is charged, that the patient may incur a financial liability greater
23 than the patient would incur if the services were provided in a facility that was not
24 a hospital-based facility; and

25 (3) How to access the publicly accessible website of the Maine Health Data
26 Organization established pursuant to chapter 1683 for educational materials about
27 facility fees and whether and under what circumstances depending on payor and
28 type of service a facility fee may be charged.

29 **Sec. 5. 22 MRSA §1718-I** is enacted to read:

30 **§1718-I. Prohibition on facility fees for certain telehealth services**

31 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
32 following terms have the following meanings.

33 A. "Facility fee" has the same meaning as in section 1718-B, subsection 1, paragraph
34 A-1.

35 B. "Health care entity" has the same meaning as in section 1718-B, subsection 1,
36 paragraph B.

37 C. "Hospital-based facility" has the same meaning as in section 1718-B, subsection 1,
38 paragraph C.

1 **2. Facility fee prohibited; exception.** A health care entity may not impose a facility
2 fee on a patient for telehealth services received by that patient unless the patient is
3 physically present in a hospital-based facility when the telehealth services are delivered to
4 the patient.

5 **Sec. 6. 22 MRSA §8712, sub-§2-A,** as enacted by PL 2023, c. 410, §1, is amended
6 to read:

7 **2-A. Facility fees charged by health care providers.** By January 1, 2024, and
8 annually thereafter, the organization shall produce and post on its publicly accessible
9 website a report on the payments for facility fees made by payors to the extent that payment
10 information is already reported to the organization. The organization shall submit the report
11 required by this subsection to the Office of Affordable Health Care established in Title 5,
12 section 3122 and the joint standing committee of the Legislature having jurisdiction over
13 health data reporting and health insurance matters. The joint standing committee may
14 report out legislation based on the report to a first regular or second regular session of the
15 Legislature, depending on the year in which the report is submitted. The organization shall
16 produce and post on its publicly accessible website information designed to educate the
17 public about facility fees and whether and under what circumstances depending on payor
18 and type of service a facility fee may be charged.

19 For the purposes of this subsection, unless the context otherwise indicates, the following
20 terms have the following meanings.

21 A. "Facility fee" means any fee charged or billed by a health care provider for
22 outpatient services provided in a hospital-based facility or freestanding emergency
23 facility that is intended to compensate the health care provider for the operational
24 expenses of the health care provider, separate and distinct from a professional fee, and
25 charged or billed regardless of how a health care service is provided.

26 B. "Health care provider" means a person, whether for profit or nonprofit, that
27 furnishes bills or is paid for health care service delivery in the normal course of
28 business. "Health care provider" includes, but is not limited to, a health system,
29 hospital, hospital-based facility, freestanding emergency facility or urgent care clinic.

30 **Sec. 7. 24-A MRSA §4316, sub-§3, ¶H** is enacted to read:

31 H. The carrier may not reimburse for a facility fee except with respect to a physically
32 present patient as provided in Title 22, section 1718-I, subsection 2.

33 **SUMMARY**

34 This bill is reported out by the Joint Standing Committee on Health Coverage,
35 Insurance and Financial Services pursuant to Public Law 2023, chapter 410. The bill
36 implements certain recommendations of the Task Force to Evaluate the Impact of Facility
37 Fees on Patients.

38 The bill prohibits the charging of a facility fee by a health care entity for telehealth
39 services unless the patient is physically present in a hospital-based facility when receiving
40 those telehealth services.

41 The bill requires a health care entity to post notice in a location readily accessible to
42 patients, including patient waiting areas, and on the entity's publicly accessible website if

1 the health care entity is a hospital-based facility that is part of a hospital or health system
2 and whether a facility fee will be charged for receiving services.

3 The bill also requires the Maine Health Data Organization to post information on its
4 publicly accessible website relating to facility fees to educate the public about what facility
5 fees are and the circumstances when facility fees may or may not be charged in association
6 with the delivery of health care services.