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An Act To Increase Health Security by Expanding Federally Funded Health Care for Maine People

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

PART A

Sec. A-1. 22 MRSA §3174-G, sub-§1, ¶F, as amended by PL 2011, c. 380, Pt. KK, §2, is further amended to read:

F. A person 20 to 64 years of age who is not otherwise covered under paragraphs A to E when the person's family income is below or equal to 125% of the nonfarm income official poverty line, provided that the commissioner shall adjust the maximum eligibility level in accordance with the requirements of the paragraph.

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

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

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

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

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

(2) A child under 21 years of age;

Sec. A-3. 22 MRSA §3174-G, sub-§1, ¶¶H and I are enacted to read:

H. Effective July 1, 2014, a person 21 to 64 years of age who is not otherwise eligible for medical assistance under this section, who qualifies for medical assistance pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and who has income at or below 133% of the nonfarm income

official poverty line plus 5% for the applicable family size as required by federal law. A person eligible for medical assistance under this paragraph must receive the same coverage as is provided to a person eligible under paragraph E; and

I. Beginning October 1, 2019, a person 19 or 20 years of age who is not otherwise eligible for medical assistance under this section, who qualifies for medical assistance pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and who has income at or below 133% of the nonfarm income official poverty line plus 5% for the applicable family size as required by federal law. A person eligible for medical assistance under this paragraph must receive the same coverage as is provided to a person eligible under paragraph E.

Sec. A-4. Contingent repeal. The Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H and I are repealed if:

1. Enhanced Federal Medical Assistance Percentage. The enhanced Federal Medical Assistance Percentage with respect to amounts expended for medical assistance for newly eligible Medicaid individuals described in 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) is reduced below 100% for calendar quarters in 2014, 2015 and 2016;

2. Reduction in enhanced Federal Medical Assistance Percentage effective. The reduction in the enhanced Federal Medical Assistance Percentage described in subsection 1 has taken effect; and

3. Legislative session of at least 30 days. After the reduction of the enhanced Federal Medical Assistance Percentage as described in subsections 1 and 2, the Legislature has convened and conducted a session of at least 30 calendar days.

Sec. A-5. Repeal. The Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H and I are repealed December 31, 2016.

PART B

Sec. B-1. Obtaining federal approval for enhanced federal match. The Commissioner of Health and Human Services shall take all steps necessary to secure an enhanced Federal Medical Assistance Percentage for services provided to the MaineCare childless adult waiver population in the State equal to that available under the federal Patient Protection and Affordable Care Act, 42 United States Code, Section 18001, et seq. for newly eligible Medicaid individuals. No later than September 1, 2014, the commissioner shall prepare and submit to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services in a format required by the Secretary of the United States Department of Health and Human Services an analysis of the benefits available under the MaineCare childless adult waiver population as of December 1, 2009 and all necessary information to certify that members of the childless adult population were not eligible on December 1, 2009 to receive full benefits, benchmark coverage as described in Section 1937(b)(1), subparagraph (A), (B) or (C) of the United States Social Security Act or benchmark equivalent coverage as described in 42 United States Code, Section 1397(b)(2). In preparing and submitting this analysis, the commissioner shall compare the services available to the childless adult population, specifically hearing services, to those of the 3 benchmark plans specified by the United States Department of Health and Human Services, Centers

for Medicare and Medicaid Services and shall indicate to the secretary whether hearing services were a covered service for the childless adult population as of December 1, 2009 and whether they are a covered service under the 3 benchmark plans. The Commissioner of Health and Human Services shall submit information certified by an actuary for the purpose of certifying the benefits available to the childless adult population on December 1, 2009 if required to do so by the secretary. If the secretary does not require information certified by an actuary for that purpose, the commissioner may not pursue the services of an actuary or submit information certified by an actuary for the purpose of certifying the benefits available to the childless adult population on December 1, 2009. If the secretary requires the submission of additional information to demonstrate that members of the childless adult population otherwise qualify as "newly eligible" individuals as described in Section 1905(y)(2) of the United States Social Security Act, in order for the State to secure an enhanced Federal Medical Assistance Percentage as set forth in Section 1905(y)(1) of the United States Social Security Act, the Department of Health and Human Services shall provide all required information to the secretary within 30 days of the secretary's sending notification that additional information is required.

Sec. B-2. Report. The Commissioner of Health and Human Services shall report no later than November 1, 2014 to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services on efforts to secure the maximum Federal Medical Assistance Percentage under section 1, including any correspondence with the United States Department of Health and Human Services regarding these efforts.

PART C

Sec. C-1. Research organization evaluation. The Office of Fiscal and Program Review shall contract with a nonpartisan research organization to evaluate the impact of the MaineCare expansion authorized in Part A on programs and services that do not currently receive Federal Medical Assistance Percentage matching funds or do not qualify for enhanced Federal Medical Assistance Percentage matching funds under the federal Patient Protection and Affordable Care Act, 42 United States Code, Section 18001, et seq., with the goal of identifying and maximizing General Fund savings. The Commissioner of Health and Human Services, the Commissioner of Corrections and the Executive Director of the State Board of Corrections shall provide to the research organization information and assistance requested for preparation of the evaluation. In evaluating the programs and services under this Part, the research organization shall at a minimum evaluate the impact on the following programs and services: the state-funded Mental Health Services - Community, Office of Substance Abuse and General Assistance - Reimbursement to Cities and Towns programs; the elderly low-cost drug program under the Maine Revised Statutes, Title 22, section 254-D; services provided for individuals 21 to 64 years of age who are currently eligible for MaineCare under medically needy, spend-down criteria; services provided under the Maine HIV/AIDS Section 1115 Demonstration Waiver; services provided for parents participating in family reunification activities; services provided for disabled individuals 21 to 64 years of age with incomes below 139% of the federal poverty level; services provided to individuals awaiting a MaineCare disability determination for whom the applications are subsequently granted; services provided to individuals who would have been considered eligible on the basis of a disability but for whom the full determination process was not completed; medical services provided to persons in the care and custody of the Department of Corrections or a county correctional facility; and the amount of

payment for services that hospitals received during fiscal years 2014-15 and 2015-16 as a result of the expansion of MaineCare eligibility pursuant to Part A. In addition, the research organization shall evaluate any savings and the impact on health outcomes achieved through initiatives implemented pursuant to the State Innovation Models Initiative grant.

Sec. C-2. Report. The research organization that conducts the evaluation under section 1 shall report no later than October 1st in 2014 and 2015 and February 15, 2016 to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the amount of General Fund savings resulting from the MaineCare expansion authorized in Part A and identified in section 1. The reports must include the amount of savings expected and realized during fiscal years 2014-15 and 2015-16 by service area or program, the amount deposited in the MaineCare Stabilization Fund pursuant to section 3 and the amount of savings projected to be achieved through state fiscal year 2020-21 by service area or program.

Sec. C-3. Calculation and transfer. Notwithstanding any other provision of law, the State Budget Officer shall calculate the amount of savings identified in this Part that applies against each General Fund account statewide as a result of the expansion of MaineCare eligibility authorized in Part A and shall transfer the amounts up to the amounts specified in section 6 by financial order upon the approval of the Governor. These transfers are considered adjustments to appropriations in fiscal year 2014-15. The State Controller shall transfer any amounts identified under this Part greater than the amounts specified in section 6 to the MaineCare Stabilization Fund established under the Maine Revised Statutes, Title 22, section 3174-KK. The State Budget Officer shall provide a report of the transferred amounts to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than June 30, 2015 for fiscal year 2014-15 and no later than June 30, 2016 for fiscal year 2015-16.

Sec. C-4. Review and responsibility. Following receipt of the reports from the research organization as required under section 2, the joint standing committee of the Legislature having jurisdiction over health and human services matters shall review the information provided in the reports and shall determine if the net cost to the General Fund of providing coverage under the MaineCare program to individuals pursuant to Part A, section 3 exceeds the savings to the General Fund, including any amount deposited in the MaineCare Stabilization Fund pursuant to section 3, due to the expansion of coverage for those individuals. Following its review of the report received on February 15, 2016, the joint standing committee may report out a bill to the 127th Legislature regarding its determinations and conclusions.

Sec. C-5. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Executive Branch Departments and Independent Agencies - Statewide 0017

Initiative: Deappropriates funds on a statewide basis for savings to be identified under this Part in existing state programs that result from the expansion of MaineCare eligibility.

| GENERAL FUND | 2013-14 | 2014-15 |
|---------------------|----------------|----------------|
| Unallocated | \$0 | (\$5,900,000) |
| GENERAL FUND TOTAL | \$0 | (\$5,900,000) |

| ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS GENERAL FUND | 2013-14 | 2014-15 |
|--------------------------------------------------------------------------------------------------------|----------------|----------------------|
| | \$0 | (\$5,900,000) |
| DEPARTMENT TOTAL - ALL FUNDS | \$0 | (\$5,900,000) |

LEGISLATURE

Legislature 0081

Initiative: Provides one-time funding for the Office of Fiscal and Program Review to contract with a nonpartisan research organization to evaluate the impact of Medicaid expansion.

| GENERAL FUND | 2013-14 | 2014-15 |
|---------------------|----------------|----------------|
| All Other | \$0 | \$100,000 |
| GENERAL FUND TOTAL | \$0 | \$100,000 |

| LEGISLATURE DEPARTMENT TOTALS GENERAL FUND | 2013-14 | 2014-15 |
|-----------------------------------------------------------|----------------|------------------|
| | \$0 | \$100,000 |
| DEPARTMENT TOTAL - ALL FUNDS | \$0 | \$100,000 |

| SECTION TOTALS GENERAL FUND | 2013-14 | 2014-15 |
|----------------------------------------|----------------|----------------------|
| | \$0 | (\$5,800,000) |
| SECTION TOTAL - ALL FUNDS | \$0 | (\$5,800,000) |

PART D

Sec. D-1. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Medical Care - Payments to Providers 0147

Initiative: Provides funds for the costs of MaineCare coverage for newly eligible adults under 139% of the federal poverty line.

| FEDERAL EXPENDITURES FUND | 2013-14 | 2014-15 |
|----------------------------------|----------------|----------------|
| All Other | \$0 | \$263,724,061 |
| FEDERAL EXPENDITURES FUND TOTAL | \$0 | \$263,724,061 |

Medical Care - Payments to Providers 0147

Initiative: Provides funds for the costs of MaineCare coverage for the childless adult waiver population.

| FEDERAL EXPENDITURES FUND | 2013-14 | 2014-15 |
|----------------------------------|----------------|----------------|
| All Other | \$0 | \$61,474,140 |
| FEDERAL EXPENDITURES FUND TOTAL | \$0 | \$61,474,140 |

Office of Family Independence - District 0453

Initiative: Provides funding for 6 Family Independence Unit Supervisor positions, 13 Office Assistant II positions and 64 Eligibility Specialist positions in the Office for Family Independence program and for related All Other costs necessary to implement and administer the MaineCare eligibility changes. This assumes the Eligibility Specialist positions are funded 25% General Fund and 75% Other Special Revenue Funds and the other positions are funded 50% General Fund and 50% Other Special Revenue Funds.

| GENERAL FUND | 2013-14 | 2014-15 |
|-------------------------------|----------------|----------------|
| POSITIONS - LEGISLATIVE COUNT | 0.000 | 83.000 |
| Personal Services | \$0 | \$1,896,901 |
| All Other | \$0 | \$167,534 |
| GENERAL FUND TOTAL | \$0 | \$2,064,435 |

| OTHER SPECIAL REVENUE FUNDS | 2013-14 | 2014-15 |
|------------------------------------|----------------|----------------|
| Personal Services | \$0 | \$4,308,290 |
| All Other | \$0 | \$326,739 |

| | | |
|-----------------------------------|-----|-------------|
| OTHER SPECIAL REVENUE FUNDS TOTAL | \$0 | \$4,635,029 |
|-----------------------------------|-----|-------------|

**HEALTH AND HUMAN SERVICES, DEPARTMENT
 OF (FORMERLY DHS)**

| | 2013-14 | 2014-15 |
|-------------------------------------|---------|---------------|
| DEPARTMENT TOTALS | | |
| GENERAL FUND | \$0 | \$2,064,435 |
| FEDERAL EXPENDITURES FUND | \$0 | \$325,198,201 |
| OTHER SPECIAL REVENUE FUNDS | \$0 | \$4,635,029 |
| DEPARTMENT TOTAL - ALL FUNDS | \$0 | \$331,897,665 |

PART E

Sec. E-1. 22 MRSA §3173-C, sub-§7, as amended by PL 2009, c. 415, Pt. A, §12, is further amended to read:

7. Copayments. Notwithstanding any other provision of law, the following copayments per service per day are imposed and reimbursements are reduced, or both, to the following levels:

- A. Outpatient hospital services, \$3;
- B. Home health services, \$3;
- C. Durable medical equipment services, \$3;
- D. Private duty nursing and personal care services, \$5 per month;
- E. Ambulance services, \$3;
- F. Physical therapy services, \$2;
- G. Occupational therapy services, \$2;
- H. Speech therapy services, \$2;
- I. Podiatry services, \$2;
- J. Psychologist services, \$2;
- K. Chiropractic services, \$2;
- L. Laboratory and x-ray services, \$1;
- M. Optical services, \$2;
- N. Optometric services, \$3;

- O. Mental health clinic services, \$2;
- P. Substance abuse services, \$2;
- Q. Hospital inpatient services, \$3 per patient day;
- R. Federally qualified health center services, \$3 per patient day, effective July 1, 2004; and
- S. Rural health center services, \$3 per patient day.

The department may adopt rules to adjust the copayments set forth in this subsection. The rules may adjust amounts to ensure that copayments are deemed nominal in amount and may include monthly limits or exclusions per service category. The need to maintain provider participation in the Medicaid program to the extent required by 42 United States Code, Section 1396a(a)(30)(A) or any successor provision of law must be considered in any reduction in reimbursement to providers or imposition of copayments.

For an adult when the adult's family income is above 100% of the nonfarm income official poverty line, the department shall adopt rules to adjust the copayments established under this subsection to reflect the maximum allowable amounts authorized under 42 United States Code, Section 1396o; to increase copayments as authorized by 42 United States Code, Section 1396o(h); and in compliance with 42 United States Code, Section 1396o(b)(3) to impose a copayment for services received at a hospital emergency room of up to twice the amount established as the copayment for outpatient services if the services are not emergency services. The department shall track aggregate copayments in compliance with 42 Code of Federal Regulations, Section 447.68 and, by rule, make adjustments to copayments to ensure compliance with federal law.

Sec. E-2. Contingent effective date. Those sections of this Act that enact the Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H and I take effect 30 days after the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services confirms in writing to the Commissioner of Health and Human Services that the enhanced Federal Medical Assistance Percentage set forth in Section 1905(y)(1) of the United States Social Security Act is applicable to the individuals who received coverage as of December 1, 2009, who are described in Title 22, section 3174-G, subsection 1, paragraph F and who are defined in Section 1905(y)(2) of the United States Social Security Act. Upon receipt of confirmation from the federal Centers for Medicare and Medicaid Services, the Commissioner of Health and Human Services shall notify in writing the President of the Senate, the Speaker of the House of Representatives and the Revisor of Statutes and shall provide them with a copy of the written confirmation.

SUMMARY

This bill accomplishes the following.

Part A expands medical coverage under the MaineCare program to adults who qualify under federal law with incomes up to 133% of the nonfarm income official poverty line, with the 5% federal income

adjustment for family size, and qualifies Maine to receive federal funding for 100% of the cost of coverage for members who enroll under the expansion. Adults who will be eligible are those 21 to 64 years of age effective July 1, 2014 and adults 19 and 20 years of age beginning October 1, 2019. The expansion of Medicaid eligibility contained in this Part is repealed if 3 circumstances occur: the enhanced Federal Medical Assistance Percentage for calendar years 2014 through 2020 is reduced below certain stated levels; the reduced enhanced Federal Medical Assistance Percentage has taken effect; and after the occurrence of the reduction of the enhanced Federal Medical Assistance Percentage the Legislature has convened and conducted a session of at least 30 calendar days. This bill repeals the expansion of medical coverage under the MaineCare program on December 31, 2016.

Part B requires the Commissioner of Health and Human Services to take all steps necessary to secure an enhanced federal match rate for services provided to the MaineCare childless adult waiver population and to report to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services by November 1, 2014 on these efforts.

Part C requires the Office of Fiscal and Program Review to contract with a nonpartisan research organization to evaluate the impact of the MaineCare expansion on programs and services that do not currently receive Federal Medical Assistance Percentage matching funds or do not qualify for enhanced Federal Medical Assistance Percentage matching funds under the federal Patient Protection and Affordable Care Act, 42 United States Code, Section 18001, et seq., with the goal of identifying and maximizing General Fund savings. Part C requires a report by October 1st in 2014 and 2015 and February 15, 2016 to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on the amount of General Fund savings resulting from the MaineCare expansion. The report must include the amount of savings expected and realized during fiscal years 2014-15 and 2015-2016 by service area or program. Part C requires the State Budget Officer to calculate the amount of savings that applies against each General Fund account for all departments and agencies from savings associated with the MaineCare expansion and to transfer the amounts by financial order upon the approval of the Governor. It requires the State Controller to transfer any remaining savings to the MaineCare Stabilization Fund. Part C requires the State Budget Officer to provide a report of the transferred amounts to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than June 30, 2015 for fiscal year 2014-15 and no later than June 30, 2016 for fiscal year 2015-16.

Part D provides funding for positions in the Department of Health and Human Services, Office of Family Independence.

Part E amends current law on copayments in the MaineCare program. This bill directs the Department of Health and Human Services to increase copayments for adults with income above 100% of the nonfarm income official poverty line to the maximum allowable under federal law and to increase nominal copayments by the annual percentage increase in the medical care component of the Consumer Price Index for All Urban Consumers. It directs the department to increase MaineCare copayments for services provided in a hospital emergency room when the services are not emergency services and requires the department to track aggregate copayments in compliance with federal law. Part E provides that until the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services

confirms that the State will get the enhanced reimbursement rate, the expansion of medical coverage under the MaineCare program will not take effect.