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## **Resolve, To Ensure Continued Services for Children with Disabilities by Imposing a Delay on MaineCare Rulemaking until an Impact Study Is Completed**

**Sec. 1 School-based services rulemaking delay. Resolved:** That the Department of Health and Human Services and the department's office of MaineCare services may not adopt or proceed to adopt any rule that proposes to change rules governing school-based services provided under 10-144 C.M.R. Chapter 101: MaineCare Benefits Manual until the steps set out in this section have been completed.

1. The department shall carry out an impact study that clearly identifies, in language accessible for families of affected children:

- A. The rationale for any proposed rule changes;
- B. The intended and unintended effects of such changes, including but not limited to financial impacts on families;
- C. The financial impacts on providers of school-based services and their subsequent ability and capacity to provide the services;
- D. An assessment of the consequences for children with disabilities of any reduction, delay or denial of service for children who are receiving or anticipated to receive medically necessary school-based services, including an examination of scientifically sound research literature about the short-term and long-term benefits of early intervention programs, the features associated with effective programs and the economic gains that accrue from investing resources in early childhood interventions;
- E. Best practices for applied behavior analysis and best practices for early intervention services for children with a range of common disabilities; and
- F. Clarification of federal and state law regarding limiting medically necessary treatment services for children to services that are recommended in the individualized education plan.

In carrying out the study, the department shall seek and consider input from affected provider groups; schools, including developmental preschools and prekindergartens; school systems; children and family advocacy groups; the Department of Education; the Child Development Services System; and other stakeholders.

The department shall incorporate into the study the recommendations and implementation plan for early intervention services in public schools contained in the final report due December 1, 2020 of the independent review of the State's early childhood special education services being carried out pursuant to Public Law 2019, chapter 343, Part VVVV.

2. The department shall submit the completed impact study and a further report, made by the department, regarding any proposed rules or modifications to current rule pertaining to medically necessary school-based services to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than April 1, 2021. The joint standing committee may report out legislation relating to the subject matter of the study and the further report for presentation to the First Regular Session of the 130th Legislature.

**Sec. 2 Initiation of rulemaking; major substantive rules. Resolved:** That, following submission of the department's study under section 1 and report regarding any proposed rules or modifications to current rule pertaining to medically necessary school-based services pursuant to section 1, subsection 2 but no earlier than July 1, 2021, the Department of Health and Human Services may initiate rulemaking to change rules governing school-based services provided under 10-144 C.M.R. Chapter 101: MaineCare Benefits Manual. Rules adopted pursuant to this section are major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

## SUMMARY

This resolve imposes a delay on the adoption by the Department of Health and Human Services of any rule that proposes to change provisions of 10-144 C.M.R. Chapter 101: MaineCare Benefits Manual governing school-based services.

It requires the department, before initiating rulemaking, to complete an impact study setting forth the rationale for the proposed changes, the financial impacts on affected families and providers of school-based services, potential service delays and other issues relating to state and federal law. The department is required to seek and consider input from affected provider groups, schools, children and family advocacy groups, the Department of Education, the Child Development Services System and other stakeholders and is also required to incorporate into the study the recommendations and implementation plan for early intervention services in public schools that will be forthcoming from the review of the State's early childhood special education services being carried out pursuant to Public Law 2019, chapter 343, Part VVVV. This report, produced by an independent entity, is due to be completed on December 1, 2020.

It requires the department to submit the completed study and a further report regarding any proposed rules or modifications to current rule pertaining to medically necessary school-based services to the joint standing committee of the Legislature having jurisdiction over health and human services matters no later than April 1, 2021. The joint standing committee is authorized to report out legislation relating to the subject matter of the study and the report to the First Regular Session of the 130th Legislature.

It authorizes the department, following completion of its study and report but no earlier than July 1, 2021, to initiate rulemaking to change rules governing school-based services provided under 10-144 C.M.R. Chapter 101: MaineCare Benefits Manual and specifies that any rules adopted are major substantive rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.