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

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

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

36-F.

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

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

CHAPTER 852

MAINECARE REIMBURSEMENT RATES REVIEW

§ 3121. Review of MaineCare reimbursement rates

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

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

- A. Reviewed or updated on a regular basis according to a process established in state or federal rule or law;
- B. Based on cost;
- C. Contracted through a managed care or capitated rate; or
- D. Based on regularly updated Medicare rates.

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

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

- A. An analysis of the access, service, quality and utilization of the service;
- B. A comparison of rates with other available reimbursement rates, including Medicare, insurance or private pay rates;
- C. Provider retention of employees;
- D. Acceptable industry productivity standards;
- E. Participation and survey of current provider costs;
- F. Consideration of service access and cost in rural areas;
- G. Consideration of needs and costs for specific population groups; and
- H. Input from the advisory committee.

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

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

§ 3122. Advisory committee

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

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

- A. Six members appointed by the President of the Senate:

(1) A representative of providers of community behavioral health services recommended by a statewide association of providers of behavioral health care services;

(2) A representative of hospitals providing services to MaineCare members recommended by a statewide association representing hospitals;

(3) A representative of providers of nonemergency medical transportation services to MaineCare members;

(4) A representative of a rural health clinic;

(5) A representative of home health care providers recommended by a statewide association representing home health care providers; and

(6) A representative of providers of durable medical equipment recommended by a statewide association of durable medical equipment providers;

B. Six members appointed by the leader of the largest minority party in the Senate:

(1) A representative of primary care physicians serving MaineCare members recommended by a statewide association representing physicians;

(2) A representative of dentists serving MaineCare members recommended by a statewide association representing dentists;

(3) A representative of federally qualified health centers recommended by a statewide association of federally qualified health centers;

(4) A representative of nonmedical home and community-based services;

(5) A representative of providers serving MaineCare members with intellectual disabilities or autism recommended by a statewide association of providers of services to individuals with intellectual disabilities or autism; and

(6) A MaineCare member living with a chronic behavioral health condition or a family member or guardian of a MaineCare member living with a chronic behavioral health condition;

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

(1) A representative of providers of substance use disorder services recommended by a statewide association representing behavioral health services;

(2) A representative of psychiatric physicians recommended by a statewide association representing psychiatric physicians;

(3) A representative of ambulatory surgical centers;

(4) A representative of hospice providers recommended by the Maine Hospice Council established in section 8611; and

(5) A representative of long-term care facilities recommended by a statewide association representing nursing facilities or assisted living facilities;

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

(1) A family member of a child with disabilities receiving MaineCare services;

(2) A representative of pharmacists serving MaineCare members recommended by a statewide association representing pharmacists;

(3) A representative of nurses recommended by a statewide association representing nurses; and

(4) A representative of physical therapists or occupational therapists recommended by a statewide association representing physical therapists or occupational therapists; and

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

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

3. Meetings; chair. The advisory committee must meet at least once every calendar quarter and may meet more often and as necessary to fulfill its statutory duties. Members shall elect a chair and vice-chair from among its members annually. Chairs and vice-chairs may be reelected. Meetings are public proceedings in accordance with Title 1, chapter 13.

4. Duties. The advisory committee has the following duties:

- A. Review the 3-year schedule developed by the department and recommend, by majority vote of the advisory committee, any changes to the review schedule under section 3121, subsection 1;
- B. Provide advice and input to the department concerning reviews of rates;
- C. Hold public hearings, as considered necessary, to receive public testimony from providers of MaineCare services and other interested parties, including members of the public; and
- D. Review the department's reports and schedules and submit an annual report no later than December 1st of each year beginning in 2020 describing the advisory committee's activities, with recommendations to the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs.

5. Staffing. The department shall provide staffing to the advisory committee including administrative services, report writing, publishing and organizing meetings and arranging meeting locations.

Sec. 3. Staggered terms; appointments. Notwithstanding the Maine Revised Statutes, Title 22, section 3114, subsection 2, the appointing authorities for the original appointments of members to the MaineCare Reimbursement Rates Review Advisory Committee shall each designate their first 2 appointments to 2-year terms, their 2nd 2 appointments to 3-year terms and any other appointments to 4-year terms. The appointing authorities shall make appointments no later than 60 days after the effective date of this Act.

SUMMARY

This bill establishes a regular review process for MaineCare reimbursement rates. The Department of Health and Human Services shall review all rates over a 3-year period except those that are already subject to regular review, based on cost, reimbursed at a capitated rate, or tied to Medicare or some other rates. The 3-year schedule and the reviews are required to be submitted to the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs. The results of reviews are also submitted to the Governor for consideration for inclusion in the biennial budget. The bill also establishes the MaineCare Reimbursement Rates Review Advisory Committee made up of stakeholders appointed by the Presiding Officers and the minority leaders in the Legislature to provide advice and input to the department on rate reviews. The advisory committee also submits an annual review of its activities to the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs. The advisory committee is staffed by the Department of Health and Human Services.