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An Act To Establish Electronic Visit Verification for In-home and Community-based Health Care Workers

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

Sec. 1. 22 MRSA §7310 is enacted to read:

§ 7310. Electronic visit verification

1. Definitions. For purposes of this section, the following terms have the following meanings.

A. "Electronic visit verification" means the electronic documentation of the performance of a service, including the type of service performed, the individual receiving the service, the date of the service, the location of the service delivery, the individual providing the service and the time that the service begins and ends.

B. "Electronic visit verification system" means a system that provides electronic visit verification that complies with subsection 3 and the federal 21st Century Cures Act, 42 United States Code, Section 1396b(l).

C. "Provider" means an entity, agency, facility or individual who offers or plans to offer any services.

D. "Service" means personal care services and home health care services as defined in the federal 21st Century Cures Act, 42 United States Code, Section 1396b(l).

2. Documentation; establishment. The commissioner shall establish an electronic visit verification system with respect to services, including implementation requirements and standards for electronic visit verification that comply with the federal 21st Century Cures Act, 42 United States Code, Section 1396b(l).

3. Department requirements. The department has the following duties and responsibilities.

A. The department shall develop implementation requirements for electronic visit verification systems. In developing implementation requirements, the commissioner shall ensure that the requirements:

(1) Are minimally administratively and financially burdensome to the provider and the direct care workers employed by the provider to deliver the service;

(2) Are minimally burdensome to the service recipient and the least disruptive to the service recipients in receiving and maintaining allowed services;

(3) Consider existing best practices and existing use of electronic visit verification;

(4) Are no more restrictive than applicable federal laws;

(5) Are effective methods for preventing fraud when balanced against the requirements of subparagraphs (1) and (2);

(6) Are consistent with the department's policies related to MaineCare-covered services, flexibility of service use and quality assurance; and

(7) Take into account the perspectives and experiences of direct care workers and the providers that employ those workers and support them in delivering services.

B. The commissioner shall make training available to providers and direct care workers on the electronic visit verification system established pursuant to subsection 2 and the operational methods of complying with the system's requirements.

C. The commissioner shall establish baseline measurements related to preventing fraud in the use of electronic visit verification and establish measures to determine the effect of electronic visit verification requirements on the integrity of the program under which services are provided.

D. The commissioner shall make the electronic visit verification system established pursuant to subsection 2 available to providers but must allow the use of other electronic visit verification systems as provided in subsection 4.

E. The commissioner may not reduce MaineCare reimbursement rates for providers as a result of federal action to reduce the federal medical assistance percentage under the federal 21st Century Cures Act, 42 United States Code, Section 1396b(l).

4. Provider requirements. A provider has the following duties and responsibilities.

A. A provider of services may select any electronic visit verification system that meets the requirements established by the commissioner pursuant to subsection 3, paragraph A.

B. An electronic visit verification system used by a provider must provide data to the commissioner in a format and at a frequency to be established by the commissioner.

C. A provider shall implement an electronic visit verification system consistent with this section by the date established by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services for the State's compliance with the federal 21st Century Cures Act, 42 United States Code, Section 1396b(l). If a good faith effort exemption is approved by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, the date of required implementation by providers is the date of required compliance under the exemption.

SUMMARY

This bill governs the implementation by the Commissioner of Health and Human Services of the federal requirements for electronic visit verification with respect to personal care services and home health care services for adults with long-term care needs under the federal 21st Century Cures Act.