



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 798

H.P. 547

House of Representatives, March 10, 2015

An Act To Strengthen Maine's Hospitals and Increase Access to Health Care

Reference to the Committee on Health and Human Services suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative DEVIN of Newcastle.

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

2 **PART A**

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

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

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

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

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

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

- 22 (1) A woman during her pregnancy and up to 60 days following delivery; or
23 (2) A child under 21 years of age;:

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

25 H. Beginning January 1, 2016, a person 21 to 64 years of age who is not otherwise
26 eligible for medical assistance under this section, who qualifies for medical assistance
27 pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and whose
28 income is equal to or below 133% of the nonfarm income official poverty line plus
29 5% for the applicable family size as required by federal law. A person eligible for
30 medical assistance under this paragraph must receive the same coverage as is
31 provided to a person eligible under paragraph E; and

32 I. Beginning October 1, 2019, a person 19 or 20 years of age who is not otherwise
33 eligible for medical assistance under this section, who qualifies for medical assistance
34 pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and whose
35 income is equal to or below 133% of the nonfarm income official poverty line plus
36 5% for the applicable family size as required by federal law. A person eligible for
37 medical assistance under this paragraph must receive the same coverage as is
38 provided to a person eligible under paragraph E.

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

16 **Sec. B-2. Report.** The Commissioner of Health and Human Services shall report
17 no later than February 1, 2016 to the Joint Standing Committee on Appropriations and
18 Financial Affairs and the Joint Standing Committee on Health and Human Services on
19 efforts to secure the maximum Federal Medical Assistance Percentage under section 1,
20 including any correspondence with the federal Department of Health and Human Services
21 regarding these efforts.

22 **PART C**

23 **Sec. C-1. Research organization evaluation.** The Office of Fiscal and
24 Program Review shall contract with a private, nonpartisan research organization to
25 evaluate the impact of the MaineCare expansion authorized in Part A on programs and
26 services that do not currently receive Federal Medical Assistance Percentage matching
27 funds or do not qualify for enhanced Federal Medical Assistance Percentage matching
28 funds under the federal Patient Protection and Affordable Care Act, Public Law 111-148,
29 as amended by Public Law 111-152, with the goal of identifying and maximizing General
30 Fund savings. The Commissioner of Health and Human Services, the Commissioner of
31 Corrections and the Executive Director of the State Board of Corrections shall provide to
32 the research organization information and assistance requested for preparation of the
33 evaluation. In evaluating the programs and services under this Part, the research
34 organization shall at a minimum evaluate the impact on the following programs and
35 services: the state-funded Mental Health Services - Community, Office of Substance
36 Abuse and General Assistance - Reimbursement to Cities and Towns programs; the
37 elderly low-cost drug program under the Maine Revised Statutes, Title 22, section 254-D;
38 services provided for individuals between 21 and 64 years of age who are currently
39 eligible for MaineCare under medically needy, spend-down criteria; services provided
40 under the Maine Medicaid Section 1115 Health Care Reform Demonstration for
41 Individuals with HIV/AIDS; services provided for parents participating in family
42 reunification activities under Title 22, section 4041; services provided for disabled
43 individuals between 21 and 64 years of age with incomes below 139% of the federal
44 poverty level; services provided to individuals awaiting a MaineCare disability
45 determination for whom the applications are subsequently granted; services provided to

1 individuals who would have been considered eligible on the basis of a disability but for
2 whom the full determination process was not completed; and medical services provided
3 to persons in the care and custody of the Department of Corrections or a county
4 correctional facility. The research organization shall also examine the amount of
5 payment for services that hospitals received during calendar years 2016 and 2017 as a
6 result of the expansion of MaineCare eligibility pursuant to Part A. In addition, the
7 research organization shall evaluate any savings and the impact on health outcomes
8 achieved through initiatives implemented pursuant to the state innovation models
9 initiative grant.

10 **Sec. C-2. Report.** The research organization that conducts the evaluation under
11 section 1 shall report no later than March 1 in 2016 and 2017 and February 15 in 2018 to
12 the joint standing committee of the Legislature having jurisdiction over appropriations
13 and financial affairs, the joint standing committee of the Legislature having jurisdiction
14 over health and human services matters and the joint standing committee of the
15 Legislature having jurisdiction over criminal justice and public safety matters on the
16 amount of General Fund savings resulting from the MaineCare expansion authorized in
17 Part A and identified in section 1. The reports must include the amount of savings
18 realized during calendar years 2016 and 2017 by service area or program, the amount
19 deposited in the MaineCare Stabilization Fund pursuant to section 3 and the amount of
20 savings projected to be achieved through state fiscal year 2020-21 by service area or
21 program.

22 **Sec. C-3. Calculation and transfer.** Notwithstanding any other provision of law,
23 the State Budget Officer shall calculate the amount of savings identified in this Part that
24 applies against each General Fund account statewide as a result of the expansion of
25 MaineCare eligibility authorized in Part A and shall transfer the amounts by financial
26 order upon the approval of the Governor. These transfers are considered adjustments to
27 appropriations in fiscal year 2015-16 and fiscal year 2016-17. The State Controller shall
28 transfer any amounts identified under this Part greater than the amounts specified in
29 section 6 to the MaineCare Stabilization Fund established under the Maine Revised
30 Statutes, Title 22, section 3174-KK. The State Budget Officer shall provide a report of
31 the transferred amounts to the joint standing committee of the Legislature having
32 jurisdiction over appropriations and financial affairs no later than June 30, 2016 for fiscal
33 year 2015-16 and no later than June 30, 2017 for fiscal year 2016-17.

34 **Sec. C-4. Review and responsibility.** Following receipt of the reports from the
35 research organization as required under section 2, the joint standing committee of the
36 Legislature having jurisdiction over health and human services matters shall review the
37 information provided in the reports and shall determine if the net cost to the General Fund
38 of providing coverage under the MaineCare program to individuals pursuant to Part A,
39 section 3 exceeds the savings to the General Fund, including any amount deposited in the
40 MaineCare Stabilization Fund pursuant to section 3, due to the expansion of coverage for
41 those individuals. Following its review of the report received on February 15, 2018, the
42 joint standing committee may report out a bill to the 128th Legislature regarding its
43 determinations and conclusions.

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PART D

Sec. D-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

1 United States Code, Section 1396o(h); and in compliance with Section 1396o(b)(3) to
2 impose a copayment for services received at a hospital emergency room of up to twice
3 the amount established as the copayment for outpatient services if the services are not
4 emergency services. The department shall track aggregate copayments in compliance
5 with 42 Code of Federal Regulations, Section 447.68 and, by rule, make adjustments to
6 copayments to ensure compliance with federal law.

7 **Sec. D-2. Contingent effective date.** If a majority of the legal votes cast
8 pursuant to Part E of this Act are cast in favor of this Act, that section of this Act that
9 enacts the Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H
10 and I takes effect 30 days after the United States Department of Health and Human
11 Services, Centers for Medicare and Medicaid Services confirms in writing to the
12 Commissioner of Health and Human Services that the enhanced Federal Medical
13 Assistance Percentage set forth in Section 1905(y)(1) of the United States Social Security
14 Act is applicable to the individuals who received coverage as of December 1, 2009, who
15 are described in Title 22, section 3174-G, subsection 1, paragraph F and who are defined
16 in Section 1905(y)(2) of the United States Social Security Act. Upon receipt of
17 confirmation from the federal Centers for Medicare and Medicaid Services, the
18 Commissioner of Health and Human Services shall notify in writing the President of the
19 Senate, the Speaker of the House of Representatives and the Revisor of Statutes and shall
20 provide them with a copy of the written confirmation.

21 **PART E**

22 **Sec. E-1. Statutory referendum procedure; submission at election; form**
23 **of question; effective date.** This Act must be submitted to the legal voters of the State
24 at a statewide election held in the month of November following passage of this Act. The
25 municipal officers of this State shall notify the inhabitants of their respective cities, towns
26 and plantations to meet, in the manner prescribed by law for holding a statewide election,
27 to vote on the acceptance or rejection of this Act by voting on the following question:

28 "Do you favor expanding medical coverage under the MaineCare
29 program, which would qualify Maine to receive federal funding for the
30 cost of coverage for members who enroll under the expansion?"

31 The legal voters of each city, town and plantation shall vote by ballot on this question
32 and designate their choice by a cross or check mark placed within a corresponding square
33 below the word "Yes" or "No." The ballots must be received, sorted, counted and
34 declared in open ward, town and plantation meetings and returns made to the Secretary of
35 State in the same manner as votes for members of the Legislature. The Governor shall
36 review the returns. If a majority of the legal votes are cast in favor of this Act, the
37 Governor shall proclaim the result without delay and this Act becomes effective 30 days
38 after the date of the proclamation except that that section of this Act that enacts the Maine
39 Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H and I takes effect
40 as provided in Part D of this Act.

41 The Secretary of State shall prepare and furnish to each city, town and plantation all
42 ballots, returns and copies of this Act necessary to carry out the purposes of this
43 referendum.

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SUMMARY

2 This bill, which is contingent on approval by the voters of the State at referendum,
3 does the following.

4 1. It expands medical coverage under the MaineCare program to adults who qualify
5 under federal law with incomes up to 133% of the nonfarm income official poverty line,
6 with the 5% federal income adjustment for family size. It repeals the expansion of
7 medical coverage under the MaineCare program December 31, 2020, and it provides for
8 repeal of the expansion prior to 2020 under certain circumstances.

9 2. It requires the Commissioner of Health and Human Services to provide certain
10 information to the Secretary of the United States Department of Health and Human
11 Services to enable the secretary to make the determination as to the eligibility of the State
12 to obtain an enhanced Federal Medical Assistance Percentage for services for MaineCare
13 members eligible as childless adults. It provides that until the secretary confirms that the
14 State will get the enhanced reimbursement rate as set forth in the federal Patient
15 Protection and Affordable Care Act, for the childless adult population in MaineCare,
16 including persons who were members under that eligibility grouping on December 1,
17 2009, the expansion of medical coverage under the MaineCare program will not take
18 effect. It requires the commissioner, upon receiving confirmation from the United States
19 Department of Health and Human Services, Centers for Medicare and Medicaid Services,
20 to notify the President of the Senate, the Speaker of the House of Representatives and the
21 Revisor of Statutes and to provide them with a copy of the written confirmation.

22 3. It requires the Office of Fiscal and Program Review to contract with a private,
23 nonpartisan research organization to evaluate the impact of the MaineCare expansion. It
24 requires a report to the Legislature on the amount of General Fund savings resulting from
25 the MaineCare expansion.

26 4. It amends current law on copayments in the MaineCare program. It directs the
27 Department of Health and Human Services to increase copayments for adults with
28 income above 100% of the nonfarm income official poverty line to the maximum
29 allowable under federal law and to increase nominal copayments by the annual
30 percentage increase in the medical care component of the Consumer Price Index for All
31 Urban Consumers. It directs the department to increase MaineCare copayments for
32 services provided in a hospital emergency room when the services are not emergency
33 services. It requires the department to track aggregate copayments in compliance with
34 federal law.