

132nd MAINE LEGISLATURE

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Legislative Document

No. 791

S.P. 354

In Senate, March 4, 2025

An Act Regarding Children with Behavioral Health Needs Awaiting Placement in Residential Care Facilities

(EMERGENCY)

Received by the Secretary of the Senate on February 27, 2025. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Department of Health and Human Services is required to ensure the operation of a psychiatric residential treatment facility as soon as possible and prior to 90 days after adjournment; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore.

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

Sec. 1. 22 MRSA §3174-PPP is enacted to read:

§3174-PPP. Reimbursement for hospitals other than critical access hospitals for days awaiting placement

Beginning January 1, 2026, the department shall provide reimbursement to hospitals, other than critical access hospitals, for each day that a MaineCare eligible individual under 19 years of age is in the care of a hospital while awaiting placement in a children's residential care facility as defined in section 8101, subsection 4. The department shall reimburse hospitals prospectively at the average daily rate for a MaineCare member at a children's residential care facility. For the purposes of this section, "critical access hospital" has the same meaning as in section 7932, subsection 10.

Sec. 2. 34-B MRSA §15003, sub-§9-A is enacted to read:

- 9-A. Monthly data report. Beginning November 1, 2025, the department shall submit a monthly report to the joint standing committee of the Legislature having jurisdiction over health and human services matters with the total number of children in a hospital emergency room who stayed in that hospital emergency room longer than 48 hours after they no longer needed a hospital level of care. The report must also provide the following data breakdown for the children in the report:
 - A. The number of children under 12 years of age;
 - B. The number of children who have entered the hospital emergency room directly from a residential setting, including, but not limited to, a children's home as defined in Title 22, section 8101, subsection 1, a children's residential care facility as defined in Title 22, section 8101, subsection 4 or another hospital;
 - C. The number of children who are experiencing homelessness; and
 - D. The services needed that are unavailable, causing the children to remain in the hospital emergency room.
- **Sec. 3. Hospital reimbursement rules.** The Department of Health and Human Services shall amend its rules in Chapter 101: MaineCare Benefits Manual, Chapter III, Section 45, Hospital Services to implement the Maine Revised Statutes, Title 22, section 3174-PPP. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. Crisis centers. No later than 270 days after adjournment of the First Regular Session of the 132nd Legislature or March 16, 2026, whichever is later, the Department of Health and Human Services shall issue a request for proposals to develop 3 crisis centers in the State to meet the needs of children and adolescents with high levels of behavioral health needs who are located in a hospital awaiting placement in an appropriate residential facility or community service. At least 1/3 of the beds must be available for use by children with intellectual disabilities or autism spectrum disorder. The request for proposals must include capital costs with a goal to adapt existing facilities in the State. If no vendor has responded to the request for proposals by October 1, 2026, the department is authorized to issue a sole-source contract. If the department fails to enter into an agreement with a vendor to develop one or more crisis centers by December 1, 2026, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by March 1, 2027 with a plan for how the department will meet the crisis needs of children and adolescents with high levels of behavioral health needs.

Sec. 5. Psychiatric residential treatment facilities. The Department of Health and Human Services shall enter into an agreement with a vendor to provide one or more psychiatric residential treatment facilities no later than April 1, 2025. If the department fails to enter into an agreement with a vendor by that date, the department is required to establish a facility that is owned and operated by the department and the facility must be operational by July 1, 2026. The department shall submit a report no later than May 1, 2025 to the Joint Standing Committee on Health and Human Services with its actions and plans with respect to establishing a psychiatric residential treatment facility either through a vendor or department operation.

Sec. 6. Settlement data. The Department of Health and Human Services shall provide to the joint standing committee of the Legislature having jurisdiction over health and human services matters copies of the de-identified data provided to the independent reviewer pursuant to the settlement agreement executed in response to the lawsuit *United States of America v. State of Maine*, United States District Court, District of Maine, Docket No. 1:24-cv-00315-SDN no later than 30 days after that data is provided to the independent reviewer.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

33 SUMMARY

This bill requires the Department of Health and Human Services to reimburse hospitals for children who are eligible under the MaineCare program and who are in hospital emergency rooms awaiting placement in a children's residential care facility at the same rate as would be provided to a children's residential care facility. The bill requires the department to develop 3 crisis centers for children and adolescents with high levels of behavioral health needs and awaiting placement in a residential facility or community service.

The bill requires the department to enter into an agreement with a vendor to provide a psychiatric residential treatment facility by April 1, 2025 or develop a facility owned and operated directly by the department. The bill requires the department to provide monthly data to the joint standing committee of the Legislature having jurisdiction over health and

human services matters on the number of children who are in a hospital emergency room awaiting placement. The report must also include the number of children under 12 years of age, the number of children who have come from another residential setting or hospital, the number of children who are experiencing homelessness and the services the children are waiting for.

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The bill also requires the department to provide to the joint standing committee of the Legislature having jurisdiction over health and human services matters the de-identified data provided to the independent reviewer to settle the lawsuit filed by the United States Department of Justice no later than 30 days after that data is provided to the reviewer.