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Legislative Document

No. 1487

S.P. 552

In Senate, May 1, 2013

An Act To Implement Managed Care in the MaineCare Program

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator KATZ of Kennebec.

Cosponsored by Senators: CAIN of Penobscot, CRAVEN of Androscoggin, HILL of York, WOODBURY of Cumberland, Representatives: CHASE of Wells, HARVELL of Farmington, KESCHL of Belgrade.

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

2 **Sec. 1. 22 MRSA §3174-WW** is enacted to read:

3 **§3174-WW. Patient-centered MaineCare reform**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Managed care plan" means an entity that contracts to provide services through a
7 health insurer, specialty plan, health maintenance organization authorized under Title
8 24-A or a provider service network authorized by the department to provide services
9 in the MaineCare program.

10 B. "Managed care program" means the program of integrated managed care for all
11 covered MaineCare services implemented in accordance with this section.

12 C. "Prepaid plan" means a managed care plan that is licensed or certified as a risk-
13 bearing entity or is an approved provider service network and is paid a prospective
14 per member, per month payment by the department to provide services in the
15 MaineCare program.

16 D. "Provider service network" means an entity the controlling interest of which is
17 owned by a health care practitioner or health care facility or a group of health care
18 practitioners or health care facilities. For the purposes of this paragraph, "health care
19 practitioner" has the same meaning as in section 1711-C, subsection 1, paragraph F
20 and "health care facility" means a health care facility as defined in section 1711-C,
21 subsection 1, paragraph D, a controlling interest of which is owned by one or more
22 licensed nursing facilities, assisted living facilities with 17 or more beds, home health
23 agencies, hospice programs or agencies providing community care for the elderly.

24 E. "Region" means a geographical area of the State that is either a district as defined
25 in section 411, subsection 5 or is a region as defined in rules adopted by the
26 department.

27 F. "Specialty plan" means a managed care plan that serves MaineCare members who
28 meet specified criteria based on age, medical condition or diagnosis.

29 **2. Managed care program.** The department shall implement a program of
30 integrated managed care for all covered MaineCare services.

31 **3. Managed care plans.** The following provisions apply to managed care plans
32 under the MaineCare program.

33 A. Services in the managed care program must be provided by managed care plans
34 that are capable of coordinating and delivering all covered services to enrollees.

35 B. The department shall select managed care plans to participate in the managed care
36 program using requests for proposals. The procurement method must give the
37 department the most flexibility and broadest power to negotiate value and provide
38 potential bidders the most flexibility to innovate.

1 C. The department shall consider quality factors in the selection of managed care
2 plans, including:

3 (1) Accreditation by a nationally recognized accrediting body;

4 (2) Documented policies and procedures for preventing fraud and abuse;

5 (3) Experience in serving enrollees and achieving quality standards;

6 (4) Availability and accessibility of primary and specialty care physicians in the
7 relevant network;

8 (5) Provision of additional benefits, particularly dental care and disease
9 management, and other initiatives that improve health outcomes; and

10 (6) The existence of an established presence in the State, or a commitment to
11 establish a presence in the State.

12 D. After negotiations are conducted, the department shall select the managed care
13 plans that are determined to be responsive and provide the best value to the
14 department. Preference must be given to plans that have signed contracts with
15 primary and specialty care physicians in sufficient numbers to meet access standards
16 established pursuant to subsection 5, paragraph B, subparagraph (3).

17 E. The department may enter into a contract with a managed care plan only if the
18 contracted services are funded or will be funded by the biennial or supplemental
19 budget of the State.

20 **4. Selection of managed care plans.** The following provisions apply to selection of
21 managed care plans to provide services under the MaineCare program.

22 A. The department shall select managed care plans through a procurement process
23 that complies with the requirements of this section. The department shall procure a
24 minimum of 3 and a maximum of 4 managed care plans for medical and behavioral
25 services. At least one of the managed care plans selected must be a provider service
26 network, if at least one provider service network bids to participate and meets the
27 minimum criteria for selection.

28 B. Participation in the managed care program by specialty plans is subject to the
29 procurement requirements in this section. The enrollment of a specialty plan in a
30 region may not exceed 5% of total enrollees in the region.

31 **5. Plan accountability.** The following provisions apply to managed care plans in
32 order to impose standards for plan accountability.

33 A. The department shall establish a 5-year contract with each managed care plan
34 selected through the procurement process described in this section. A plan contract
35 may be renewed for an additional 2 years. The department may extend the term of a
36 plan contract to cover any delays during the transition to a new plan.

37 B. The department shall establish contract requirements that are necessary for the
38 operation of the managed care program. In addition to any other provisions the
39 department may determine to be necessary, the contract must require:

- 1 (1) Compensation for physicians for coordination of care, management of
2 chronic disease and avoidance of the need for more costly services;
- 3 (2) Compensation for hospitals that reflects mutually acceptable rates, methods
4 and terms of payment and that is not lower than similar fee-for-service rates paid
5 by the department;
- 6 (3) Access standards that are specific, population-based standards for the
7 number, type and regional distribution of providers in managed care plan
8 networks to ensure access to care for both adults and children. The standards
9 must allow the managed care plans to limit the providers in their networks based
10 on credentials, quality indicators and price;
- 11 (4) An accurate and complete electronic database, available on the publicly
12 accessible website of the managed care plan, of contracted providers, including
13 information about licensure or registration, locations and hours of operation and
14 specialty credentials and other certifications that allows comparison of providers
15 to network adequacy standards and that accepts and displays feedback from
16 patients;
- 17 (5) A prescribed drug formulary or preferred drug list available on the publicly
18 accessible website of the managed care plan in a manner that is accessible to and
19 searchable by members and providers. The requirements must require the
20 managed care plan to update the list within 24 hours after making a change and to
21 ensure that the prior authorization process for prescribed drugs is readily
22 accessible to providers, including posting appropriate contact information on the
23 publicly accessible website and providing timely responses to providers;
- 24 (6) An encounter data system to collect, process, store and report on covered
25 services provided to all MaineCare members enrolled in prepaid plans;
- 26 (7) Specific performance standards and benchmarks or timelines for improving
27 performance over the term of the contract.
- 28 (a) A managed care plan shall establish an internal health care quality
29 improvement system, including enrollee satisfaction and disenrollment
30 surveys. The quality improvement system must include incentives and
31 disincentives for network providers.
- 32 (b) A managed care plan shall collect and report health plan employer data
33 and information set measures as specified by the department. These measures
34 must be published on the publicly accessible website of the managed care
35 plan in a manner that allows members to reliably compare the performance of
36 plans. The department shall use the measures as a tool to monitor plan
37 performance.
- 38 (c) A managed care plan must be accredited by a nationally recognized
39 accrediting body, or have initiated the accreditation process, within one year
40 after the contract with the department is executed;
- 41 (8) A managed care plan to establish program integrity functions and activities to
42 reduce the incidence of fraud and abuse, including, at a minimum, a provider
43 credentialing system and ongoing provider monitoring, procedures for reporting

1 instances of fraud and abuse and designation of a program integrity compliance
2 officer;

3 (9) A managed care plan to establish an internal process for reviewing and
4 responding to grievances from enrollees and submit quarterly reports including
5 the number, description and outcome of grievances filed by enrollees. The
6 grievance procedure must meet the requirements of the department;

7 (10) A managed care plan to comply with the requirements of the department for
8 enrollment reduction and withdrawal and for reporting encounter data. Failure to
9 meet the requirement of this subparagraph must result in penalties or termination
10 of a regional contract; and

11 (11) A managed care plan and the plan's fiscal agent or intermediary to comply
12 with the prompt payment requirements of Title 24-A.

13 **6. Payments to managed care plans.** The following provisions apply to payments
14 to managed care plans by the department.

15 A. The department shall pay prepaid plans per member, per month payments
16 negotiated pursuant to this section. Payments must be at risk-adjusted rates based on
17 historical utilization and spending data, projected and adjusted to reflect the
18 eligibility category, geographic area and clinical risk profile of the members. In
19 negotiating rates with the plans, the department shall consider any adjustments
20 necessary to encourage plans to use the most cost-effective treatments of chronic
21 disease; and

22 B. Provider service networks may be prepaid plans and receive per member, per
23 month payments. A fee-for-service option must be available to a provider service
24 network for the first 2 years of its contract period. During this fee-for-service option
25 period, if the provider service network exceeds per member, per month costs
26 equivalent to those of the prepaid plans, risk-adjusted for similar members, during the
27 contract period, the provider service network shall refund 1/2 of the per member, per
28 month case management fee paid by the department to that provider service network
29 during that same contract year.

30 **7. Enrollment; choice counseling; eligibility.** Except as otherwise provided by
31 law, the following provisions apply to enrollment in and choice counseling and eligibility
32 for managed care plans.

33 A. A MaineCare member must enroll in a managed care plan during an annual open
34 enrollment period unless specifically exempted under this section. The member must
35 be provided a choice of plans and may select any available plan unless that plan is
36 restricted by contract to a specific population that does not include the member. A
37 MaineCare member must be provided 30 days in which to make a choice of plans.

38 B. The department shall implement a choice counseling system to ensure that a
39 MaineCare member has timely access to accurate information on the available
40 managed care plans. The counseling system must include plan-to-plan comparative
41 information on benefits, provider networks, drug formularies, quality measures and
42 other data points as determined by the department. Choice counseling must be made
43 available through face-to-face interaction, through the publicly accessible website of

1 the department, by telephone and in writing and through other forms of relevant
2 media. Materials must be provided in a culturally appropriate manner, consistent
3 with federal requirements. The department shall implement a competitive bidding
4 process for procurement of choice counseling functions. The choice counseling
5 system may not be administered by a managed care plan.

6 C. After a MaineCare member has enrolled in a managed care plan, the member
7 must have 90 days to voluntarily disenroll and select another plan. After 90 days, no
8 further changes may be made except for good cause or during the annual open
9 enrollment period.

10 D. The department shall automatically enroll into a managed care plan those
11 MaineCare members who do not choose a plan. Except as otherwise outlined in this
12 section, the department may not engage in practices that are designed to favor one
13 managed care plan over another.

14 E. A MaineCare member who has access to private health care coverage may not be
15 enrolled in a managed care plan and must use MaineCare financial assistance to pay
16 for the member's share of the cost in such coverage. The amount of financial
17 assistance provided for the member may not exceed the amount of the MaineCare
18 premium that would have been paid to a managed care plan for that member.

19 F. A MaineCare member who becomes ineligible for MaineCare may voluntarily pay
20 the managed care plan a monthly premium equal to the current equivalent per
21 member, per month rate, plus 2%, for up to 36 months to maintain the member's
22 MaineCare managed care plan coverage. Members must be provided at least 60 days
23 to select this option, and the managed care plan may not reject any members during
24 this 60-day period. A member who is more than 45 days late in paying the monthly
25 premium to the managed care plan is ineligible for coverage under this option.

26 **8. Eligible populations.** MaineCare members must receive covered services
27 through the managed care program, except that the following MaineCare members may
28 be enrolled in a mandatory capitated care management program:

29 A. Persons who are eligible for MaineCare and for coverage under the federal
30 Medicare program;

31 B. Persons who are 65 years of age or older;

32 C. Persons who are 18 years of age or older and eligible for MaineCare due to a
33 disability;

34 D. Persons who require residential nursing facility care;

35 E. Children with special needs and children who are eligible for assistance under the
36 federal supplemental security income program in 42 United States Code, Sections
37 1381 to 1383f;

38 F. Members of an Indian tribe if the program is administered by a tribal health
39 department or health clinic, as defined in section 411, subsection 13; and

40 G. Children receiving services in a prescribed pediatric extended care facility.

1 **9. MaineCare benefits under managed care plans.** The following provisions
2 govern benefits under MaineCare managed care plans.

3 A. Managed care plans shall cover, at a minimum, Medicaid benefits applicable to
4 the category of eligible members.

5 B. As approved by the department, managed care plans may customize benefit
6 packages for nonpregnant adults, vary cost-sharing provisions and provide coverage
7 for additional services. The department shall evaluate the proposed benefit packages
8 to ensure services are sufficient to meet the needs of the plan's enrollees and to verify
9 actuarial equivalence.

10 C. A plan operating in the managed care program shall establish a program to
11 encourage and reward healthy behaviors by MaineCare members. MaineCare
12 members must have the opportunity to earn a maximum of \$125 per year to defray
13 other health-related expenses for such healthy behaviors. At a minimum, a plan shall
14 establish a medically approved smoking cessation program, a medically directed
15 weight-loss program and a medically approved alcohol or substance abuse recovery
16 program. A plan shall identify members who smoke, are morbidly obese or are
17 diagnosed as suffering from alcohol or substance abuse and shall establish written
18 agreements with those members to participate in these programs.

19 **Sec. 2. Stakeholder group.** No later than October 1, 2013, the Department of
20 Health and Human Services shall convene a patient-centered MaineCare reform
21 stakeholder group to provide input on the implementation of the Maine Revised Statutes,
22 Title 22, section 3174-WW. The department shall invite the participation of providers,
23 patients, managed care providers and Legislators.

24 **Sec. 3. Federal approval; contingent effective date.** The Department of
25 Health and Human Services shall seek approval from the federal Department of Health
26 and Human Services, Centers for Medicare and Medicaid Services of a Medicaid state
27 plan amendment under the United States Social Security Act, Section 1932(a) to require
28 MaineCare members with access to employer-sponsored health care coverage to enroll in
29 that coverage and use MaineCare financial assistance to pay for the member's share of the
30 cost for such coverage. The amount of financial assistance provided for each member
31 may not exceed the amount of the MaineCare premium that would have been paid to a
32 managed care plan for that member. The provisions of the Maine Revised Statutes, Title
33 22, section 3174-WW, subsection 7, paragraph E take effect upon notification from the
34 Department of Health and Human Services to the Revisor of Statutes that approval under
35 this section has been granted.

36 **Sec. 4. Selection of managed care plans.** The department shall issue a request
37 for proposals no later than October 1, 2013 to select managed care plans pursuant to the
38 Maine Revised Statutes, Title 22, section 3174-WW, subsection 4. By January 1, 2014,
39 the department shall begin implementation of the statewide managed care program, with
40 full implementation in all regions and all populations by July 1, 2014. Beginning July 1,
41 2015, at least 2 of the managed care plans must also include all long-term care and home-
42 based and community-based services for those MaineCare populations eligible for those
43 services.

