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Date: (Filing No. H-)

HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1257, L.D. 1955, “An Act to Require Hospitals and Hospital-affiliated Providers to Provide Financial Assistance for Medical Care”

Amend the bill by striking out the title and substituting the following:

'An Act to Require Hospitals to Provide Accessible Financial Assistance for Medical Care'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 22 MRSA §1716, as enacted by PL 1995, c. 653, Pt. B, §7 and affected by §8 and enacted by c. 696, Pt. A, §36, is repealed and the following enacted in its place:

§1716. Charity care and financial assistance programs

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

A. "Charity care" means free health care services provided by hospitals to patients in accordance with the requirements of subsection 2.

B. "Family income" means the cumulative income of a group of 2 or more persons related by birth, marriage or adoption who reside together and among whom there are legal responsibilities for support; all such related persons are considered as one family. For the purposes of this definition, "family income" includes:

- (1) Money wages and salaries before any deductions;
- (2) Net receipts from nonfarm or farm self-employment. Net receipts are receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses;
- (3) Regular payments from social security, railroad retirement, unemployment compensation, workers' compensation, strike benefits from union funds and veterans' benefits;

COMMITTEE AMENDMENT

- 1 (4) Public assistance including Temporary Assistance to Needy Families,
2 supplemental security income and general assistance money payments;
3 (5) Training stipends;
4 (6) Alimony, child support and military family allotments or other regular support
5 from an absent family member or someone not living in the household;
6 (7) Private pensions, government employee pensions and regular insurance or
7 annuity payments;
8 (8) Dividends, interest, rents, royalties or periodic receipts from estates or trusts;
9 and
10 (9) Net gambling or lottery winnings.

11 For the purposes of this definition, "family income" does not include:

- 12 (1) Capital gains;
13 (2) Any liquid assets, including withdrawals from a bank or proceeds from the sale
14 of property;
15 (3) Tax refunds;
16 (4) Gifts, loans and lump-sum inheritances;
17 (5) One-time insurance payments or other one-time compensation for injury;
18 (6) Noncash benefits such as the employer-paid or union-paid portion of health
19 insurance or other employee fringe benefits;
20 (7) The value of food and fuel produced and consumed on farms and the imputed
21 value of rent from owner-occupied nonfarm or farm housing; and
22 (8) Federal noncash benefit programs, including Medicare, Medicaid, food
23 stamps, school lunches and housing assistance.

24 C. "Federal poverty level" has the same meaning as in section 3762, subsection 1,
25 paragraph C.

26 D. "Financial assistance program" means a program administered by a hospital to
27 provide patients with free or reduced-cost health care services and includes but is not
28 limited to charity care.

29 E. "Household income" means the adjusted gross income plus any excludible foreign-
30 earned income and tax-exempt interest received in the most recent taxable year of a tax
31 filer, the tax filer's spouse and dependents.

32 F. "State resident" means an individual:

- 33 (1) Living in the State with the intent to remain in the State indefinitely; or
34 (2) Who enters the State with a permanent, temporary, seasonal or other job
35 commitment or who is seeking employment.

36 "State resident" does not include an individual who is in the State temporarily as a
37 tourist or visitor.

38 **2. Hospital to provide care.** A hospital shall, in accordance with rules adopted by
39 the department and consistent with the Hill-Burton Act codified at 42 United States Code,

1 Section 291, et seq. (1995), provide free health care services to eligible patients who are
2 state residents in accordance with this section. Upon admission or, in cases of emergency
3 admission, before discharge of a patient, a hospital shall investigate the coverage of the
4 patient by any insurance or state or federal programs of medical assistance. A hospital shall
5 provide free, medically necessary services for patients whose income is equal to or less
6 than 200% of the federal poverty level. A hospital shall adopt a modified adjusted gross
7 income methodology as described in 42 Code of Federal Regulations, Section 435.603(e)
8 in the calculation of countable income. Rules adopted pursuant to this section must be
9 consistent with the requirements of the United States Internal Revenue Code of 1986,
10 Section 501(r) and any federal regulations implementing those requirements.

11 **3. Applications and eligibility for financial assistance.** A hospital, in accordance
12 with rules adopted under subsection 2:

13 A. May use an application form developed by the department, which must be deemed
14 compliant with the requirements of this subsection and which the department shall
15 translate into any language spoken by 5% of the population of the State or 1,000 people
16 in the State, whichever is less;

17 B. May not require notarization of any application materials or required supporting
18 documents. A hospital may include on an application for financial assistance a
19 requirement for an applicant to attest to the accuracy of the information submitted, as
20 well as a statement that any information determined to be false will result in a denial
21 of financial assistance and financial responsibility for charges for services provided by
22 the hospital and that knowing submission of false information is unlawful;

23 C. Shall accept documentation specified by the department by rule that may be used
24 as proof that the patient is a state resident;

25 D. May not solicit from an applicant for charity care provided in accordance with this
26 section information regarding any assets or income that are not used to calculate
27 modified adjusted gross income as described in 42 Code of Federal Regulations,
28 Section 435.603(e);

29 E. Shall provide interpretation services to patients with limited English proficiency
30 and those who are deaf or hard of hearing;

31 F. Shall provide versions of the charity care application and summary under subsection
32 4, paragraph A translated into any language spoken by 5% of the population of the
33 State or 1,000 people in the State, whichever is less, as well as any additional languages
34 spoken by 5% of the community served by the hospital or 1,000 people in the
35 community served by the hospital, whichever is less;

36 G. Shall determine a patient unable to pay for hospital services and eligible for charity
37 care when the family income of the patient, as calculated by either of the following
38 methods, is not more than the applicable income guidelines established in subsection
39 2:

40 (1) Multiplying by 4 the patient's family income for the 3 months preceding the
41 determination of eligibility; or

42 (2) Using the patient's actual family income for the 12 months preceding the
43 determination of eligibility.

1 If one method is inapplicable, the other method must be applied prior to determining
2 that a patient is ineligible for charity care;

3 H. Shall determine eligibility based upon the patient's income at the time the
4 application is submitted;

5 I. Shall, within 15 days of receiving an application, notify the patient to clearly explain
6 the information or documentation necessary to complete the application. The hospital
7 shall provide the patient with a reasonable amount of time that is no less than 30 days
8 following notification to the patient of any information needed to complete the
9 application before denying the application based on incomplete information. The
10 hospital shall determine eligibility and inform the patient of the eligibility
11 determination within 30 days from the date a completed application is submitted;

12 J. Shall provide each applicant who requests charity care and is denied it, in whole or
13 in part, a written and dated statement of the reasons for the denial when the denial is
14 made and shall provide to a patient who is found ineligible for charity care, in whole
15 or in part, information regarding the right to request a fair hearing from the department
16 regarding the patient's eligibility for charity care; and

17 K. Shall provide to a patient who is found ineligible for charity care information
18 regarding the right to request a fair hearing from the department regarding the patient's
19 eligibility for charity care.

20 **4. Notice and publication requirements.** In accordance with rules adopted by the
21 department, a hospital shall widely publicize its financial assistance programs within the
22 community served by the hospital, including by:

23 A. Publishing a summary of the financial assistance programs written in plain
24 language, including a summary of services not covered by financial assistance
25 programs;

26 B. Providing physical copies of the plain language summary under paragraph A,
27 application and any application instructions in conspicuous locations within the
28 hospital, including admission, registration and waiting areas;

29 C. Posting a full, accessible and downloadable version of the application on the
30 hospital's publicly accessible website;

31 D. Including on all plain language summaries and notices and application instructions,
32 excluding billing statements, information regarding the hospital's financial assistance
33 program and information regarding the availability of no-cost assistance with applying
34 for financial assistance and health coverage programs through the Health Insurance
35 Consumer Assistance Program, as established in Title 24-A, section 4326; and

36 E. Providing information on the availability of financial assistance on all billing
37 statements sent to a patient, including, how to apply for financial assistance, a publicly
38 accessible website where an individual may download a copy of the application and a
39 phone number that an individual may call to request a paper copy of the application.

40 **5. Noncovered services.** In accordance with rules adopted by the department, a
41 hospital shall inform a patient who is determined to be eligible for financial assistance if
42 any part of a medical service, treatment, procedure or test provided or administered to the
43 patient in the hospital is not covered by the hospital's financial assistance programs. A

1 hospital may not bill a patient for a service if the hospital failed to provide the patient with
2 advance notice that a medical service, treatment, procedure or test is not covered under the
3 hospital's financial assistance programs. A hospital may bill a patient's insurance for a
4 medical service, treatment, procedure or test for which the hospital is prohibited from
5 billing the patient under this section.

6 **6. Reasonable payment plans; maximum out-of-pocket payments.** In accordance
7 with rules adopted by the department, a hospital shall offer patients with documented
8 household incomes that do not exceed 400% of the federal poverty level, payment plans
9 that do not exceed 3% of the patient's monthly income that is not exempt from attachment
10 or garnishment under state law.

11 **7. Bill disputes.** A hospital shall include on a billing statement sent to a patient
12 information regarding how to dispute a charge. If the contact information for disputing a
13 charge is distinct from the contact information for paying or otherwise settling a bill, the
14 contact information for the individual or entity charged with handling disputed charges
15 must be provided.

16 **8. Notice.** With respect to inpatient services, each hospital shall provide individual
17 written notice of the availability of charity care to each patient upon admission or, in the
18 case of emergency admission, before discharge. With respect to outpatient services, each
19 hospital shall either include with the patient's bill a copy of an individual notice of the
20 availability of charity care or shall provide a copy of the individual notice at the time service
21 is provided. The individual notice must provide a telephone number to request a paper
22 application, the website address where an individual can submit an online application, the
23 income guidelines to qualify for financial assistance and any other information specified
24 by the department.

25 **9. Online application.** A hospital shall provide an online option through which an
26 applicant may file an application for charity care. The online option must provide an e-mail
27 response to the user that an application has been received. The hospital shall provide an
28 option for a patient to request that an application be mailed to the patient.

29 **10. Enforcement.** This subsection governs enforcement of this section.

30 A. The department shall:

31 (1) Establish a process for a patient to submit a complaint of hospital
32 noncompliance with this section;

33 (2) Conduct a review within 30 days of receiving a complaint regarding
34 noncompliance with this section; and

35 (3) Require a corrective action of a hospital, if the department determines that the
36 hospital is not in compliance, which may include:

37 (a) Measures to inform the patient about the noncompliance; and

38 (b) Financial correction.

39 B. If the department determines that a hospital knowingly or willfully violated this
40 section or engaged in a pattern of noncompliance with this section, the department may,
41 through the Office of the Attorney General, bring a civil action against the hospital for
42 a penalty not to exceed \$1,000.

1 **11. Rulemaking.** The department shall adopt rules to carry out the purposes of this
 2 section. Rules adopted pursuant to this subsection are routine technical rules as defined in
 3 Title 5, chapter 375, subchapter 2-A.

4 **Sec. 2. Department to adopt rules.** By July 1, 2025, the Department of Health
 5 and Human Services shall adopt rules pursuant to the Maine Revised Statutes, Title 22,
 6 section 1716, subsection 11 to implement the requirements of this Act. The rules must
 7 include a provision limiting a patient's right to request an administrative hearing to within
 8 60 days after the date of the written notification of the action under section 1716 that the
 9 patient wishes to appeal.

10 **Sec. 3. Appropriations and allocations.** The following appropriations and
 11 allocations are made.

12 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

13 **Division of Licensing and Certification Z036**

14 Initiative: Provides one-time funding for the cost of translation services for financial
 15 eligibility applications.

16	GENERAL FUND	2023-24	2024-25
17	All Other	\$0	\$26,325
18			
19	GENERAL FUND TOTAL	\$0	\$26,325

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21	OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
22	All Other	\$0	\$41,175
23			
24	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$41,175

25 **Division of Licensing and Certification Z036**

26 Initiative: Provides funding for one half-time Social Services Program Specialist II to
 27 oversee the development of the application and associated translated versions as well as
 28 ongoing work ensuring adherence to regulatory requirements.

29	GENERAL FUND	2023-24	2024-25
30	Personal Services	\$0	\$20,938
31	All Other	\$0	\$2,647
32			
33	GENERAL FUND TOTAL	\$0	\$23,585

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35	OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
36	POSITIONS - LEGISLATIVE COUNT	0.000	0.500
37	Personal Services	\$0	\$32,749
38	All Other	\$0	\$6,054
39			
40	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$38,803

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1	HEALTH AND HUMAN SERVICES,		
2	DEPARTMENT OF		
3	DEPARTMENT TOTALS	2023-24	2024-25
4			
5	GENERAL FUND	\$0	\$49,910
6	OTHER SPECIAL REVENUE FUNDS	\$0	\$79,978
7			
8	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$129,888

9 **Sec. 4. Effective date.** This Act takes effect January 1, 2025.'

10 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
11 number to read consecutively.

12 SUMMARY

13 This amendment makes the following changes to the bill.

14 1. It removes references to "hospital-affiliated providers."

15 2. It adds definitions for "charity care" and "financial assistance program."

16 3. It clarifies that tourists and visitors to Maine are not state residents.

17 4. It adds language allowing hospitals to use an application form developed by the
18 Department of Health and Human Services, which the department must translate into any
19 language spoken by 5% of the population of the State, or 1,000 people in the State,
20 whichever is less.

21 5. It adds language allowing hospitals to include on an application for financial
22 assistance a requirement for an applicant to attest to the accuracy of the information
23 submitted and a statement that any information determined to be false will result in a denial
24 of financial assistance and financial responsibility for services provided and that knowing
25 submission of false information is unlawful.

26 6. It replaces language requiring hospitals to translate documents into any language
27 spoken by significant populations of nonnative English speakers served by the hospital or
28 residing in the community served by the hospital with language requiring translation of the
29 charity care application and summary into languages spoken by 5% of the population of
30 the State, or 1,000 people in the State, whichever is less, as well as any additional languages
31 spoken by 5% of the community served by the hospital or 1,000 people in the community
32 served by the hospital, whichever is less.

33 7. It adds language to include a requirement for hospitals to provide interpretation for
34 deaf and hard-of-hearing patients.

35 8. It removes language stating that hospitals have an affirmative duty to investigate
36 and determine a patient's eligibility for charity care with language that provides that
37 hospitals must determine a patient unable to pay for hospital services and eligible for
38 charity care when the family income of the patient, as calculated by the methods provided
39 in the amendment, is not more than the applicable income guidelines.

40 9. It removes language requiring hospitals to accept and process a financial assistance
41 application submitted by a patient at any time.

1 10. It replaces language requiring hospitals to determine eligibility for financial
2 assistance based upon the patient's income at the time of the application or the patient's
3 income at the time of the provision of the health care service, whichever is less, with
4 language requiring hospitals to determine eligibility for financial assistance based upon the
5 patient's income at the time of the application.

6 11. It removes language requiring hospitals to determine eligibility for financial
7 assistance within 15 days from the date a completed application is submitted.

8 12. It changes from 10 days to 15 days the time frame within which a hospital must
9 notify the patient to clearly explain what information or documentation is needed to
10 complete the application and adds language requiring a hospital to inform the patient of the
11 eligibility determination within 30 days from the date a completed application is submitted.

12 13. It adds language clarifying that a hospital may investigate the insurance coverage
13 of a patient at any time and may bill insurance for services provided during the period for
14 which the patient remains eligible for charity care.

15 14. It changes the language regarding the right to fair hearings to make clear that a
16 hospital is required to provide to a patient who is found ineligible for charity care
17 information regarding the right to request a fair hearing from the department regarding the
18 patient's eligibility for charity care.

19 15. It removes language allowing patients to reapply for financial assistance at any
20 time following a denial.

21 16. It clarifies that the required summary of financial assistance programs must include
22 a summary of services not covered by financial assistance programs.

23 17. It removes the language prohibiting a hospital from billing a patient when the
24 hospital has not provided a good faith estimate of the cost of a service.

25 18. It adds language stating that a hospital may bill a patient's insurance for a medical
26 service, treatment, procedure or test for which the hospital is prohibited from billing the
27 patient when the hospital fails to provide notice to the patient that the service is not covered
28 under that hospital's financial assistance programs.

29 19. It removes the requirement that hospitals offer payment plans of at least 2 years
30 duration and provides that a hospital must offer, for patients with household incomes that
31 do not exceed 400% of the federal poverty level, a payment plan not to exceed 3% of the
32 patient's monthly income that is not exempt from attachment or garnishment under Maine
33 law.

34 20. It removes the language regarding limitations of billing and collections, except that
35 it adds language stating that a hospital must provide individual written notice of the
36 availability of charity care to each patient upon admission for inpatient services and, for
37 outpatient services, include with the patient's bill a copy of an individual notice of the
38 availability of charity care or provide a copy of the individual notice at the time service is
39 provided.

40 21. It adds language requiring a hospital to provide an online option through which an
41 applicant may file an application for charity care. It also requires the hospital to provide
42 an option for a patient to request that an application be mailed to them.

