

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 622 - L.D. 854

An Act To Ensure Continued Health-related Services for Children To Access Education

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

Whereas, health-related services provided to children to access education are critical to their success and must be available to the maximum extent possible under federal law; and

Whereas, the Legislature has an important role in ensuring that rules adopted by the Department of Health and Human Services result in health-related services being provided to children to access their education by providing additional review, and the review must be in place as soon as possible; 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. 34-B MRSA §1227 is enacted to read:

§1227. Health-related services for children from birth to 5 years of age to access education

1. Services required. The department shall provide reimbursement for health-related services that are required for children from birth to 5 years of age to access their education. Health-related services may include, but are not limited to, physical therapy, occupational therapy, speech therapy, nursing services, social work services and behavioral health services.

2. Rulemaking. The department shall adopt rules to implement this section. The rules must establish the process for reimbursement under subsection 1 and be consistent with federal law. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. Initial rulemaking. The Department of Health and Human Services shall adopt a new rule to implement the requirements of the Maine Revised Statutes, Title 34-B, section 1227 in accordance with this section.

1. Major substantive rule. Notwithstanding Title 34-B, section 1227, subsection 2, rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and must be provisionally adopted and submitted to the Legislature for review no later than January 13, 2023. After adoption of rules under this section, any rules subsequently adopted by the Department of Health and Human Services to implement the requirements of Title 34-B, section 1227 are routine technical rules as specified in section 1227.

2. Stakeholder groups. The Department of Health and Human Services shall convene stakeholder groups as necessary to discuss the proposed new major substantive rule under subsection 1 prior to any rule-making activity initiated pursuant to Title 5, chapter 375, subchapter 2-A. Stakeholder groups must include representatives of providers, advocates, parents of children receiving services, the Child Development Services System under Title 20-A, section 7209, school administrative units and the Department of Education. The Department of Health and Human Services shall also take into account the findings from the independent review of the State's early childhood special education services being carried out pursuant to Public Law 2019, chapter 343, Part VVVV.

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