

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 764 - L.D. 1204

**An Act to Improve the Health of Maine Residents by Closing Coverage Gaps
in the MaineCare Program for Incarcerated Persons**

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

Sec. 1. 22 MRSA §3174-CC, as repealed and replaced by PL 2019, c. 492, §2, is amended to read:

§3174-CC. Medicaid eligibility during incarceration

1. Establish procedures. The department shall establish procedures to ensure that:

A. A person receiving federally approved Medicaid services prior to incarceration in a correctional facility, county jail or regional jail does not lose Medicaid eligibility as a result of that incarceration and receives assistance with reapplying for benefits if that person's Medicaid coverage expires or is terminated during the term of incarceration; and

B. A person who is not receiving federally approved Medicaid services prior to incarceration in a correctional facility, county jail or regional jail but meets the eligibility requirements for Medicaid receives assistance with applying for federally approved Medicaid services.

2. Presumptive eligibility. If a MaineCare provider determines that a person who is incarcerated in a correctional facility, county jail or regional jail who does not have Medicaid coverage is likely to be eligible for services under this section, the provider must be reimbursed for services provided under this section in accordance with 42 Code of Federal Regulations, Section 435.1101.

3. Memorandum of understanding with Department of Corrections. The department and the Department of Corrections shall enter into a memorandum of understanding in order to provide an a person who is incarcerated person in a correctional facility with assistance in applying for benefits under this section and section 3104, subsection 17.

4. Memorandum of understanding with counties. No later than January 1, 2024, the department shall enter into a memorandum of understanding with counties in this State

that have a county jail or a regional jail in order to provide a person who is incarcerated in a county jail or a regional jail with assistance in applying for benefits under this section.

5. MaineCare coverage prior to release. During at least the 90-day period prior to the release of an individual from incarceration in a correctional facility, county jail or regional jail, the department shall provide reimbursement under the MaineCare program for services that can be provided under the program to individuals who are incarcerated and that facilitate an individual's transition back into the community.

The provisions of this section apply even if Medicaid coverage is limited during the period of incarceration in a correctional facility, county jail or a regional jail. Nothing in this section requires or permits the department to maintain an incarcerated person's Medicaid eligibility if the person no longer meets eligibility requirements.

Sec. 2. Report regarding memorandums of understanding. No later than January 1, 2024, the Department of Health and Human Services shall report to the Joint Standing Committee on Health and Human Services on the progress made toward entering into memorandums of understanding with counties in the State that have a county jail or a regional jail as required by the Maine Revised Statutes, Title 22, section 3174-CC, subsection 4. The committee may report out legislation related to the report to the Second Regular Session of the 131st Legislature.

Sec. 3. Federal waiver. No later than 18 months after the effective date of this Act, the Department of Health and Human Services shall apply to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services for a waiver pursuant to Section 1115 of the United States Social Security Act to provide during at least the 90-day period prior to the release of an individual from incarceration in a correctional facility, county jail or regional jail reimbursement under the MaineCare program for services that can be provided under the program to individuals who are incarcerated and that facilitate an individual's transition back into the community.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

CORRECTIONS, DEPARTMENT OF

Correctional Medical Services Fund 0286

Initiative: Deappropriates funding for medical services that will now be covered by the MaineCare program.

GENERAL FUND	2023-24	2024-25
All Other	\$0	(\$1,115,715)
GENERAL FUND TOTAL	<hr/>	<hr/>
	\$0	(\$1,115,715)

**CORRECTIONS, DEPARTMENT OF
DEPARTMENT TOTALS**

	2023-24	2024-25
GENERAL FUND	\$0	(\$1,115,715)
DEPARTMENT TOTAL - ALL FUNDS	<hr/>	<hr/>
	\$0	(\$1,115,715)

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers 0147

Initiative: Provides funding for the Department of Health and Human Services to provide reimbursement under the MaineCare program for services that can be provided under the program to individuals who are incarcerated and that facilitate an individual's transition back into the community, for at least the 90-day period prior to release of an individual from incarceration in a county jail, regional jail or a correctional facility.

GENERAL FUND	2023-24	2024-25
All Other	\$0	\$433,232
GENERAL FUND TOTAL	\$0	\$433,232

FEDERAL EXPENDITURES FUND	2023-24	2024-25
All Other	\$0	\$2,800,724
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$2,800,724

Office for Family Independence Z020

Initiative: Provides one-time funding for required technology development and testing.

GENERAL FUND	2023-24	2024-25
All Other	\$31,725	\$0
GENERAL FUND TOTAL	\$31,725	\$0

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$97,472	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$97,472	\$0

Office for Family Independence - District 0453

Initiative: Provides funding to establish one Eligibility Specialist position.

GENERAL FUND	2023-24	2024-25
Personal Services	\$20,788	\$21,793
All Other	\$1,634	\$1,634
GENERAL FUND TOTAL	\$22,422	\$23,427

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$62,364	\$65,380
All Other	\$6,526	\$6,599
OTHER SPECIAL REVENUE FUNDS TOTAL	\$68,890	\$71,979

Office of MaineCare Services 0129

Initiative: Provides one-time funding for required technology development and testing.

GENERAL FUND	2023-24	2024-25
All Other	\$94,422	\$0
GENERAL FUND TOTAL	<u>\$94,422</u>	<u>\$0</u>

FEDERAL EXPENDITURES FUND	2023-24	2024-25
All Other	\$290,103	\$0
FEDERAL EXPENDITURES FUND TOTAL	<u>\$290,103</u>	<u>\$0</u>

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

	2023-24	2024-25
GENERAL FUND	\$148,569	\$456,659
FEDERAL EXPENDITURES FUND	\$290,103	\$2,800,724
OTHER SPECIAL REVENUE FUNDS	\$166,362	\$71,979
DEPARTMENT TOTAL - ALL FUNDS	<u>\$605,034</u>	<u>\$3,329,362</u>

SECTION TOTALS

	2023-24	2024-25
GENERAL FUND	\$148,569	(\$659,056)
FEDERAL EXPENDITURES FUND	\$290,103	\$2,800,724
OTHER SPECIAL REVENUE FUNDS	\$166,362	\$71,979
SECTION TOTAL - ALL FUNDS	<u>\$605,034</u>	<u>\$2,213,647</u>

Sec. 5. Contingent effective date. The Maine Revised Statutes, Title 22, section 3174-CC, subsection 5 does not take effect unless:

1. The United States Department of Health and Human Services, Centers for Medicare and Medicaid Services approves the federal waiver sought under section 3; and
2. The Commissioner of Health and Human Services notifies the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes that written approval for the waiver has been received.