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Date: (Filing No. S-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
130TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 29, L.D. 1, “An Act To Establish the COVID-19 Patient Bill of Rights”

Amend the bill in the 4th paragraph after the title in the 4th line (page 1, line 11 in L.D.) by inserting after the following: "COVID-19" the following: 'screening,'

Amend the bill in the by striking out all of the 5th paragraph after the title (page 1, lines 13 to 15 in L.D.).

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

PART A

Sec. A-1. 22 MRSA §1718-D, sub-§2, as amended by PL 2019, c. 668, §1, is further amended to read:

2. Prohibition on balance billing. An out-of-network provider reimbursed for a surprise bill or a bill for covered emergency services under Title 24-A, section 4303-C or, if there is a dispute, under Title 24-A, section 4303-E or a bill for COVID-19 screening and testing under Title 24-A, section 4320-P may not bill an enrollee for health care services beyond the applicable coinsurance, copayment, deductible or other out-of-pocket cost expense that would be imposed for the health care services if the services were rendered by a network provider under the enrollee's health plan. For an enrollee subject to coinsurance, the out-of-network provider shall calculate the coinsurance amount based on the median network rate for that health care service under the enrollee's health plan. An out-of-network provider is also subject to the following with respect to any overpayment made by an enrollee.

A. If an out-of-network provider provides health care services covered under an enrollee's health plan and the out-of-network provider receives payment from the enrollee for health care services for which the enrollee is not responsible pursuant to this subsection, the out-of-network provider shall reimburse the enrollee within 30

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1 calendar days after the earlier of the date that the provider received notice of the
2 overpayment and the date the provider became aware of the overpayment.

3 B. An out-of-network provider that fails to reimburse an enrollee for an overpayment
4 as required by paragraph A shall pay interest on the overpayment at the rate of 10%
5 per annum beginning on the earlier of the date the provider received notice of the
6 overpayment and the date the provider became aware of the overpayment. An enrollee
7 is not required to request the accrued interest from the out-of-network provider in order
8 to receive interest with the reimbursement amount.

9 **Sec. A-2. 22 MRSA §1718-G** is enacted to read:

10 **§1718-G. Requirements for notice to patients of costs for COVID-19 screening and**
11 **testing and prohibited charges for COVID-19 vaccination for uninsured**
12 **patients**

13 **1. COVID-19 defined.** For the purposes of this section, “COVID-19” has the same
14 meaning as in Title 24-A, section 4320-P, subsection 1, paragraph A.

15 **2. Notice of costs for COVID-19 screening and testing.** A provider, as defined in
16 Title 24-A, section 4301-A, subsection 16, shall, at the time a patient schedules or registers
17 for screening or testing services and before providing screening or testing services for
18 COVID-19:

19 **A. Provide notice of any payment or upfront charge and the amount of that payment or**
20 **charge that will be due from the patient for the services, including payments or charges**
21 **for which the provider will submit a claim on the patient’s behalf or for which the**
22 **patient will need to submit a claim for reimbursement to the patient’s health insurance**
23 **carrier or to the department;**

24 **B. To the extent applicable, provide the form for requesting coverage from the**
25 **department through emergency MaineCare coverage; and**

26 **C. To the extent applicable, inform any patient who will be required to make a payment**
27 **or upfront charge that there are locations where COVID-19 screening and testing**
28 **services are provided without such payments and that those locations are identified on**
29 **the State’s publicly accessible website.**

30 **3. Charges to uninsured patients for COVID-19 vaccination prohibited.** A
31 provider, as defined in Title 24-A, section 4301-A, subsection 16, may not charge an
32 uninsured patient any amount for administering a COVID-19 vaccine or any associated
33 costs of administration.

34 **4. Rules.** The department may adopt rules to implement and administer this section to
35 align with any applicable federal regulations. Rules adopted pursuant to this subsection are
36 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

37 **Sec. A-3. 24-A MRSA §4320-P** is enacted to read:

38 **§4320-P. Coverage for health care services for COVID-19**

39 **Notwithstanding any requirements of this Title to the contrary, a carrier offering a**
40 **health plan in this State shall provide, at a minimum, coverage as required by this section**
41 **for screening, testing and immunization for COVID-19.**

1 **1. Definitions.** For the purposes of this section, unless the context otherwise indicates,
2 the following terms have the following meanings.

3 A. "COVID-19" means the coronavirus disease 2019 resulting from SARS-CoV-2,
4 severe acute respiratory syndrome coronavirus 2, and any virus mutating from that
5 virus.

6 B. "Surveillance testing program" means a structured program of asymptomatic testing
7 at a community or population level to understand the incidence or prevalence of
8 COVID-19 in a group. "Surveillance testing program" does not include a program of
9 testing that occurs less often than once per month per individual.

10 **2. Testing.** A carrier shall provide coverage for screening and testing for COVID-19
11 as follows.

12 A. A carrier shall provide coverage for screening and testing for COVID-19, except
13 when such screening and testing is part of a surveillance testing program.

14 B. A carrier may not impose any deductible, copayment, coinsurance or other cost-
15 sharing requirement for the costs of COVID-19 screening and testing, including all
16 associated costs of administration.

17 C. A carrier may not make coverage without cost sharing as required by paragraph B
18 dependent on any prior authorization requirement.

19 D. A carrier may not make coverage without cost sharing as required by paragraph B
20 dependent on the use of a provider in a carrier's network unless an enrollee is offered
21 screening and testing by a network provider without additional delay and the enrollee
22 chooses instead to obtain screening from an out-of-network provider or to be tested by
23 an out-of-network laboratory.

24 E. For the purposes of this subsection, with respect to COVID-19 screening and testing
25 rendered by an out-of-network provider, a carrier shall reimburse the out-of-network
26 provider in accordance with section 4303-C, subsection 2, paragraph B.

27 This subsection is repealed December 31, 2023.

28 **3. Immunization; COVID-19 vaccines.** A carrier shall provide coverage for COVID-
29 19 vaccines as follows.

30 A. A carrier shall provide coverage for any COVID-19 vaccine licensed or authorized
31 under an emergency use authorization by the United States Food and Drug
32 Administration that is recommended by the United States Centers for Disease Control
33 and Prevention Advisory Committee on Immunization Practices, or successor
34 organization, for administration to an enrollee.

35 B. A carrier may not impose any deductible, copayment, coinsurance or other cost-
36 sharing requirement for the cost of COVID-19 vaccines, including all associated costs
37 of administration.

38 C. A carrier may not make coverage without cost sharing as required by paragraph B
39 dependent on any prior authorization requirement.

40 D. A carrier may not make coverage without cost sharing as required by paragraph B
41 dependent on the use of a provider in a carrier's network unless an enrollee is offered

1 immunization by a network provider without additional delay and the enrollee chooses
2 instead to obtain immunization from an out-of-network provider.

3 **4. Rules.** The superintendent may adopt rules to implement and administer this section
4 to align with any applicable federal requirements. Rules adopted pursuant to this subsection
5 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

6 **Sec. A-4. Exemption from mandate review.** Notwithstanding the Maine
7 Revised Statutes, Title 24-A, section 2752, this Part is enacted without review and
8 evaluation by the Department of Professional and Financial Regulation, Bureau of
9 Insurance.

10 PART B

11 **Sec. B-1. 24-A MRSA §4311, sub-§2-A** is enacted to read:

12 **2-A. Coverage of prescription during emergency declared by the Governor.**
13 Except as provided in this subsection, a carrier shall provided coverage for the furnishing
14 or dispensing of a prescription drug in accordance with a valid prescription issued by a
15 provider in a quantity sufficient for an extended period of time, not to exceed a 180-day
16 supply, during a statewide state of emergency declared by the Governor in accordance with
17 Title 37-B, section 742 and Title 22, section 802, subsection 2-A to an enrollee who has
18 been stable on the prescription drug for at least 6 months and has an existing relationship
19 with the provider who issued the prescription. This subsection does not apply to coverage
20 of prescribed contraceptive supplies furnished and dispensed pursuant to section 2756,
21 2847-G or 4247 or coverage of opioids prescribed in accordance with limits set forth in
22 Title 32.

23 **Sec. B-2. 32 MRSA §13831, sub-§2-A** is enacted to read:

24 **2-A. Administration of COVID-19 vaccines.** A pharmacist licensed in this State
25 who meets the qualifications and requirements of section 13832 and rules adopted by the
26 board may administer and order COVID-19 vaccines licensed or authorized under an
27 emergency use authorization by the United States Food and Drug Administration that are
28 recommended by the United States Centers for Disease Control and Prevention Advisory
29 Committee on Immunization Practices, or successor organization, to a person 3 years of
30 age or older. For the purposes of this subsection, "COVID-19" has the same meaning as in
31 Title 24-A, section 4320-P, subsection 1, paragraph A.

32 **Sec. B-3. Exemption from mandate review.** Notwithstanding the Maine Revised
33 Statutes, Title 24-A, section 2752, section 1 of this Part is enacted without review and
34 evaluation by the Department of Professional and Financial Regulation, Bureau of
35 Insurance.

36 PART C

37 **Sec. C-1. Permitted delegation of COVID-19 vaccine administration at**
38 **point-of-dispensing vaccine sites for immunizations against COVID-19.** This
39 section governs the permitted delegation of COVID-19 vaccine administration at point-of-
40 dispensing vaccine sites for immunizations against COVID-19. For the purposes of this
41 section, "COVID-19" means the coronavirus disease 2019 resulting from SARS-CoV-2,
42 severe acute respiratory syndrome coronavirus 2, and any virus mutating from that virus.

1 **1. Applicability.** This section applies only to point-of-dispensing vaccine sites that
2 have a written memorandum of understanding with the Department of Health and Human
3 Services, Maine Center for Disease Control and Prevention to administer vaccines against
4 COVID-19. This section is effective only during the state of emergency declared by the
5 Governor due to COVID-19 as of March 15, 2020 and any renewals of that declaration in
6 accordance with the Maine Revised Statutes, Title 37-B, section 742 and Title 22, section
7 801, subsection 4-A and section 802, subsection 2-A.

8 **2. Permitted delegation of COVID-19 vaccine administration.** Any on-site
9 clinician in charge of a point-of-dispensing vaccine site with a memorandum of
10 understanding that complies with the requirements of subsection 4 may delegate the
11 administration of COVID-19 vaccines within the State to employees, staff, agents or
12 volunteers as long as the on-site clinician in charge is currently licensed by the State as a
13 physician, advanced practice registered nurse or physician assistant and any employee, staff
14 member, agent or volunteer to whom such authority is delegated under this section is
15 subject to the supervision and control of the point-of-dispensing vaccine site and any on-
16 site clinician in charge and has completed the training and observation required in
17 subsection 3. Any individual to whom vaccine administration is delegated under this
18 section is authorized to administer any COVID-19 vaccine identified as a "covered
19 countermeasure" in the 4th amendment to the declaration by the Secretary of the United
20 States Department of Health and Human Services under the federal Public Readiness and
21 Emergency Preparedness Act, referred to in this section as "the PREP Act," or in any
22 subsequent declaration under that Act, and that meets the 42 United States Code, Section
23 247d-6d(i)(1) definition of "covered countermeasure."

24 **3. Training and observation.** Prior to undertaking any vaccine administration,
25 anyone to whom vaccine administration is delegated under subsection 2 must complete the
26 United States Department of Health and Human Services, Centers for Disease Control and
27 Prevention COVID-19 vaccine training modules; any applicable training required by the
28 PREP Act or any declaration issued pursuant to that Act for medical countermeasures
29 against COVID-19 or guidance from an authority having jurisdiction under such
30 declaration; and any applicable observation period by a currently practicing health care
31 professional adequately experienced in vaccination who confirms competency in
32 preparation and administration of the particular COVID-19 vaccine or vaccines to be
33 administered by the individual, if required by the PREP Act or in any declaration or
34 guidance under that Act. The individual must provide documentation of any training and
35 observation required by this section to the point-of-dispensing vaccine site and the on-site
36 clinician in charge prior to any administration of a COVID-19 vaccine as authorized by this
37 section.

38 **4. Requirements for the memorandum of understanding and other record**
39 **keeping.** Any on-site clinician in charge of a point-of-dispensing vaccine site may make a
40 delegation under subsection 2 only if the point-of-dispensing vaccine site's memorandum
41 of understanding or addendum to that memorandum of understanding identifies the
42 clinician in charge by name. The point-of-dispensing vaccine site and the Department of
43 Health and Human Services, Maine Center for Disease Control and Prevention shall each
44 retain a copy of the memorandum of understanding for a period of 3 years. The point-of-
45 dispensing vaccine site and on-site clinician in charge are each responsible for retaining for
46 a period of 3 years a record of the name of each individual to whom vaccine administration

1 is delegated under subsection 2 and evidence of each individual's completion of the
2 required training and observation.

3 **5. Delegation authority under other state law.** The authority to delegate the
4 administration of COVID-19 vaccines granted in this section is in addition to any
5 delegation authority that may otherwise exist under state law. Clinicians in charge who
6 exercise delegation authority pursuant to other state law are not required to comply with
7 the requirements of this section.'

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

10 **SUMMARY**

11 This amendment is the minority report of the committee. The amendment differs from
12 the majority report in 2 ways. In Part A, this amendment repeals the requirements related
13 to health insurance coverage of COVID-19 screening and testing on December 31, 2023.
14 In Part B, this amendment requires that health insurance carriers cover a prescription drug
15 prescribed and dispensed to a patient in a quantity sufficient for an extended period of time,
16 not to exceed a 180-day supply, during a statewide state of emergency declared by the
17 Governor due to a public health threat, except for certain contraceptive supplies or opioid
18 medications. The majority report does not limit the scope of the emergency to a public
19 health threat. This amendment also includes language not in the majority report that further
20 requires that the patient must have been stable on that drug for at least 6 months and have
21 an existing relationship with the provider that prescribed the drug initially.

22 **FISCAL NOTE REQUIRED**

23 **(See attached)**