

Date: (Filing No. S- )

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

**STATE OF MAINE**  
**SENATE**  
**132ND LEGISLATURE**  
**FIRST SPECIAL SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to S.P. 755, L.D. 1937, “An Act to Require Hospitals and Hospital-affiliated Providers to Provide Financial Assistance Programs for Medical Care”

Amend the amendment on page 1 by striking out all of lines 12 to 23 and inserting the following:

'Amend the bill by striking out all of section 3 and inserting the following:

'**Sec. 3. 22 MRSA §1716-A** is enacted to read:

**§1716-A. Charity care and financial assistance programs provided by hospitals**

This section applies to financial assistance programs provided by hospitals to qualifying patients, including program requirements specific to charity care.

**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 under subsection 2.

B. "Family income" means the cumulative income of a patient and the patient's family. "Family income" does not include the income of any individual residing in a patient's household who is not a member of the patient's family. For the purposes of this paragraph, "family" means a group of 2 or more persons related by birth, marriage, civil union, domestic partnership or adoption who reside together and among whom there are legal responsibilities for support. All such related persons are considered one family.

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

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

E. "Income" means modified adjusted gross income as determined using the methodology described in 42 Code of Federal Regulations, Section 435.603(e).

1 F. "State resident" has the same meaning as in 42 Code of Federal Regulations, Section  
2 435.403(d).

3 **2. Hospital to provide charity care.** A hospital shall, in accordance with rules  
4 adopted by the department, provide free health care services to eligible patients who are  
5 state residents in accordance with this section. Upon admission of a patient, or in cases of  
6 emergency admission before discharge of a patient, a hospital shall investigate the coverage  
7 of the patient by any insurance or state or federal programs of medical assistance. A  
8 hospital shall provide free, medically necessary services for patients whose family income  
9 is equal to or less than 150% of the federal poverty level or 200% of the federal poverty  
10 level if the patient is uninsured.

11 The income of a secondary or postsecondary student in the State must be determined by  
12 including the student's parents' or caregivers' income.

13 **3. Applications and eligibility requirements for financial assistance programs**  
14 **generally.** The following requirements apply to financial assistance programs provided by  
15 a hospital, including charity care except as otherwise provided in subsection 4. A hospital,  
16 in accordance with rules adopted by the department:

17 A. May use an application form developed by the department pursuant to subsection  
18 12;

19 B. May not require notarization of any application materials or supporting documents  
20 required for an application. However, a hospital may include on an application for a  
21 financial assistance program:

22 (1) A requirement for an applicant to attest to the accuracy of the information  
23 submitted;

24 (2) A statement that any information submitted that is determined to be false will  
25 result in a denial of financial assistance and that the applicant will bear financial  
26 responsibility for charges for services provided by the hospital; and

27 (3) A statement informing the applicant that knowingly submitting false  
28 information is unlawful;

29 C. Shall accept documentation specified by the department by rule that may be used as  
30 proof that the applicant is a state resident;

31 D. Shall determine eligibility based upon the applicant's family income at the time the  
32 application is submitted; and

33 E. Shall, within 30 days of receiving an application, notify the applicant to clearly  
34 explain what additional information or documentation, if any, is necessary to complete  
35 the application. The hospital shall provide the patient with a reasonable amount of time  
36 that is no less than 30 days following notification to the patient of any information  
37 needed to complete the application before denying the application based on incomplete  
38 information. The hospital shall determine eligibility and inform the patient of the  
39 eligibility determination within 45 days from the date a completed application is  
40 submitted.

41 Notwithstanding any provision of this subsection to the contrary, a person who is  
42 determined to be eligible for assistance under a hospital's financial assistance program must  
43 notify the hospital if any change has occurred that may impact the person's eligibility for

1 assistance at the time a service is scheduled or delivered. Failure to notify the hospital if  
2 any change has occurred that may impact the person's eligibility for assistance will cause  
3 the person to be ineligible for free care pursuant to this section.

4 **4. Applications and eligibility requirements specific to charity care.** In addition to  
5 the requirements of subsection 3, and notwithstanding any provision of subsection 3 to the  
6 contrary, the following requirements apply to charity care. A hospital, in accordance with  
7 rules adopted by the department:

8 A. May not solicit from an applicant for charity care provided in accordance with this  
9 section information regarding any assets or income that are not used to calculate  
10 modified adjusted gross income as described in 42 Code of Federal Regulations,  
11 Section 435.603(e), except that a hospital may solicit from an applicant information  
12 regarding assets or income not included under 42 Code of Federal Regulations, Section  
13 435.603(e) that is subject to Maine individual income taxation;

14 B. Shall provide versions of the charity care application and the summary described in  
15 subsection 5, paragraph A translated into any language spoken by 5% of the community  
16 served by the hospital or 1,000 people in the community served by the hospital,  
17 whichever is less;

18 C. Shall determine that an applicant is unable to pay for hospital services and is eligible  
19 for charity care when the family income of the patient, as calculated by either of the  
20 methods described in subparagraphs (1) and (2), is equal to or less than 150% of the  
21 federal poverty level if the applicant is insured or 200% of the federal poverty level if  
22 the applicant is uninsured. Eligibility may be calculated by:

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

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

27 If one method of calculation is inapplicable, the other method must be applied prior to  
28 determining an applicant's eligibility for charity care.

29 The income of a secondary or postsecondary student in the State must be determined  
30 by including the student's parents' or caregivers' income;

31 D. Shall provide each applicant who requests charity care and is denied it, in whole or  
32 in part, a written and dated statement of the reasons for the denial when the denial is  
33 made; and

34 E. Shall provide to an applicant who is denied charity care, in whole or in part,  
35 information regarding the right to request a fair hearing from the department regarding  
36 the patient's eligibility for charity care.

37 **5. Notice and publication requirements.** In accordance with rules adopted by the  
38 department, a hospital shall widely publicize its financial assistance programs within the  
39 community served by the hospital, including by:

40 A. Publishing a summary of the financial assistance programs written in plain  
41 language, including a summary of services not covered by financial assistance  
42 programs;

1 B. Providing, in conspicuous locations within the hospital, including admission,  
2 registration and waiting areas, information regarding how patients can access physical  
3 copies of the plain language summary under paragraph A, the financial assistance  
4 program application and any application instructions;

5 C. Posting a full and downloadable version of the financial assistance program  
6 application on the hospital's publicly accessible website;

7 D. Including on all plain language summaries and financial assistance program  
8 application instructions, excluding billing statements except as otherwise provided in  
9 paragraph E and subsection 6, information regarding the hospital's financial assistance  
10 program and information regarding the availability of no-cost assistance with applying  
11 for financial assistance and health coverage programs through the Health Insurance  
12 Consumer Assistance Program established in Title 24-A, section 4326; and

13 E. Providing on all billing statements sent to a patient information on the availability  
14 of financial assistance, including how to apply for the financial assistance program, the  
15 address of a publicly accessible website from which a patient may download a copy of  
16 the application and a telephone number that a patient may call to request a paper copy  
17 of the application.

18 **6. Individual written notice of charity care availability.** A hospital shall provide a  
19 patient with individual written notice of the availability of charity care according to the  
20 following.

21 A. With respect to inpatient services, the hospital shall provide individual written  
22 notice of the availability of charity care to each patient upon admission, or in the case  
23 of emergency admission before discharge.

24 B. With respect to outpatient services, the hospital shall either include with the patient's  
25 bill a copy of an individual notice of the availability of charity care or provide a copy  
26 of the individual notice at the time service is provided.

27 The individual notice provided pursuant to this subsection must include the information  
28 required pursuant to subsection 5, paragraph D, a telephone number to request a paper  
29 charity care application, the income guidelines to qualify for charity care and any other  
30 information specified by the department by rule.

31 **7. Patient notified of noncovered services; consequences for failing to notify.** In  
32 accordance with rules adopted by the department, a hospital shall inform a patient who is  
33 determined to be eligible for financial assistance if any part of a medical service, treatment,  
34 procedure or test provided or administered to the patient in the hospital is not covered by  
35 the hospital's financial assistance programs. A hospital may bill a patient's health insurance  
36 carrier for a medical service, treatment, procedure or test for which the hospital is  
37 prohibited from billing the patient under this subsection.

38 **8. Reasonable payment plans; maximum out-of-pocket payments.** In accordance  
39 with rules adopted by the department, a hospital shall offer a patient with a documented  
40 family income that does not exceed 300% of the federal poverty level a payment plan that  
41 requires monthly out-of-pocket payments that do not exceed 4% of the patient's monthly  
42 family income that is not exempt from attachment or garnishment under state law.

43 A hospital is not required to offer a patient a payment plan for a debt less than \$1,000.

1        **9. Bill disputes.** A hospital shall include on a billing statement sent to a patient  
2 information regarding how to dispute a charge. If the contact information for disputing a  
3 charge is distinct from the contact information for paying or otherwise settling a bill, the  
4 contact information for the individual or entity charged with handling disputed charges  
5 must be provided.

6        **10. Employer failure to provide insurance or workers' compensation.** If a person  
7 is employed and the person's employer fails to provide health insurance or workers'  
8 compensation insurance as required by state or federal law and the insurance or workers'  
9 compensation would have covered the treatment received by the person, the person's  
10 employer is responsible for the cost of the treatment received by that person.

11        **11. Enforcement.** This subsection governs enforcement of this section.

12        A. The department shall:

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

15            (2) Conduct a review within 30 days of receiving a complaint from a patient  
16 regarding noncompliance with this section; and

17            (3) Require a corrective action of a hospital, if the department determines that the  
18 hospital is not in compliance with this section, which may include:

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

20                    (b) Adjusting any amount billed to the patient in violation of this section.

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

25        **12. Application developed by department.** The department shall develop an  
26 application for patients to apply for financial assistance programs, including charity care,  
27 consistent with the requirements of subsections 3 and 4, as applicable. The department  
28 shall translate any application it develops into any language spoken by 5% of the population  
29 of the State or 1,000 people in the State, whichever is less.

30        **13. Rulemaking.** The department shall adopt rules to carry out the purposes of this  
31 section. Rules adopted pursuant to this subsection must be consistent with the requirements  
32 of the United States Internal Revenue Code of 1986, Section 501(r) and any federal  
33 regulations implementing those requirements. Rules adopted pursuant to this subsection  
34 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

35        Amend the amendment by relettering or renumbering any nonconsecutive Part letter or  
36 section number to read consecutively.

## 37                    SUMMARY

38        This amendment does the following.

39        1. It amends the definition of "family income" to include income from persons related  
40 by civil union or domestic partnership and clarifies that a secondary or postsecondary  
41 student's income includes the student's parents' income.

1           2. It amends the definition of "state resident" to match the one used in 42 Code of  
2 Federal Regulations, Section 435.403(d).

3           3. It clarifies that if a person is employed and the person's employer fails to provide  
4 health insurance or workers' compensation insurance as required by state or federal law and  
5 the insurance or workers' compensation would have covered the treatment received by the  
6 person, the person's employer is responsible for the cost of the treatment received by that  
7 person.

8           4. It clarifies that the expansion of the mandatory charity care threshold from 150% of  
9 the federal poverty level to 200% applies only to uninsured persons.

10          5. It requires the recipient of charity care to notify the hospital of any change that might  
11 affect the recipient's eligibility to receive charity care.

12          6. It changes the completeness review deadline from 15 days to 30 days.

13          7. It removes the requirement that a hospital must provide interpretation services to  
14 patients with limited English proficiency and patients who are deaf or hard of hearing.

15          8. It exempts hospitals from providing payment plans for debts less than \$1,000.

16 **SPONSORED BY:** \_\_\_\_\_

17           **(Senator MOORE, M.)**

18           **COUNTY: Washington**