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Date: (Filing No. S-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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

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

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

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

39 D. A carrier may not make coverage without cost sharing as required by paragraph B
40 dependent on the use of a provider in a carrier's network unless an enrollee is offered
41 immunization by a network provider without additional delay and the enrollee chooses
42 instead to obtain immunization from an out-of-network provider.

1 accordance with the Maine Revised Statutes, Title 37-B, section 742 and Title 22, section
2 801, subsection 4-A and section 802, subsection 2-A.

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

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

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

44 **5. Delegation authority under other state law.** The authority to delegate the
45 administration of COVID-19 vaccines granted in this section is in addition to any
46 delegation authority that may otherwise exist under state law. Clinicians in charge who

1 exercise delegation authority pursuant to other state law are not required to comply with
2 the requirements of this section.'

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

5 **SUMMARY**

6 This amendment replaces the bill and is the majority report of the committee. The
7 amendment does the following.

8 Part A requires health insurance carriers to provide coverage for COVID-19 screening,
9 testing and immunization services and prohibits a carrier from imposing any cost-sharing
10 requirements on consumers for those services. Part A makes it clear that out-of-network
11 providers may not balance bill for those services. Part A also requires providers to provide
12 prior notice to all patients of any payment or upfront charge and the amount of that payment
13 or charge that will be due from the patient for COVID-19 screening and testing.

14 Part B authorizes a pharmacist to administer and order COVID-19 vaccines licensed
15 by the United States Food and Drug Administration that are recommended by the United
16 States Centers for Disease Control and Prevention Advisory Committee on Immunization
17 Practices for administration. Part B also requires that health insurance carriers cover a
18 prescription drug prescribed and dispensed to a patient in a quantity sufficient for an
19 extended period of time, not to exceed a 180-day supply, during a state of emergency
20 declared by the Governor, except for certain contraceptive supplies or opioid medications.

21 Part C allows delegation of authority by an on-site clinician to certain persons for the
22 administration of COVID-19 vaccines at point-of-dispensing vaccine sites.

23 **FISCAL NOTE REQUIRED**

24 **(See attached)**