



Appropriations and Financial Affairs Committee

5 State House Station

Augusta, ME 04333

Dear Committee Members,

I am writing to provide comments on Part NNN of the change package, specifically, the provision that authorizes the Department of Administrative and Financial Services to carry forward any unexpended balance in the State Benefit Mandate Defrayal program in each fiscal year of the 2024-2025 biennium into the following fiscal year and biennium. I urge the committee to not act prematurely in making or planning for defrayal payments or let the possibility of defrayal deter the State from enacting prudent policies like the biomarker testing coverage legislation (LD 1577).

First, I would like to highlight the importance of biomarker testing in healthcare and why this provision holds significant bipartisan support. Biomarker testing plays a crucial role in matching patients with cancer and other diseases with the most effective treatments and avoiding ineffective or unnecessary treatments. This not only leads to more efficient care delivery but also can result in cost savings for patients and the healthcare system as a whole. For instance, prognostic biomarker tests can identify cancer patients at very low risk of progression or recurrence, enabling them to opt out of further aggressive treatments, thus reducing both financial and emotional burdens. Biomarker testing is also used to bypass treatments that are likely to be ineffective for certain patients.

Next, while there is a possibility of defrayal, it's unclear whether Maine will be required to make defrayal payments. Despite the provision of the Affordable Care Act (ACA) requiring states to make such payments for additional benefits beyond the Essential Health Benefits (EHB), many states have passed legislation requiring coverage of particular benefits without making defrayal payments. The Biden Administration has not enforced state defrayal requirements and has even taken steps to eliminate reporting requirements associated with it. Furthermore, a pending federal rule, the Notice of Benefit and Payment Parameters for 2025, is expected to further limit the possibility of defrayal payments and grant states more flexibility in expanding benefits.

Given these circumstances, while the legislature is prudently allocating funds for possible defrayal expenses with the Fertility Mandate (LD 1539 of the 130<sup>th</sup> Legislature), it's uncertain whether these funds will indeed be needed. Likewise, it is unclear whether funds will be needed for biomarkers. To date, we are not aware of any state that has made defrayal payments for biomarker testing. Much of the biomarker testing that would be required under LD 1577 is already covered by many plans, and the Maine benchmark plan currently includes "diagnostic testing" and "laboratory outpatient and professional services", broad categories that this testing could fall under. Defrayal is not required for benefits that are part of the benchmark plan.

Please let me know if ACS CAN may provide further clarification or answer any questions you may have regarding this matter.

Thank you for your attention to this important issue.

Best,

Julia MacDonald

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