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3/11/2025

Senator Bailey, Chair
Representative Mathieson, Chair
Members, Joint Standing Committee on Health Coverage, Insurance, and Financial Services
100 State House Station
Augusta, ME 04333-0100

Re: LD 742 – *An Act to Permit Telehealth Services Across State Lines Following Referral from a Primary Care Provider Based in the State*

Senator Bailey, Representative Mathieson and members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services:

Thank you for the opportunity to provide information in opposition of LD 742, *An Act to Permit Telehealth Services Across State Lines Following Referral from a Primary Care Provider Based in the State*.

This bill permits health care providers licensed in another state to provide telehealth services to a patient in this State as long as the patient is referred for those services by a primary care provider licensed in this State and the primary care provider has obtained and documented the patient's written informed consent to receive telehealth services. The out-of-state provider must comply with the provisions of state law and rules regarding telehealth services and, prior to the provision of telehealth services, must disclose to the patient the provider's qualifications, proof of licensure and contact information.

The Department of Health and Human Services (the "Department") opposes LD 742 as the broad allowance of out-of-state (OOS) providers delivering telehealth services would jeopardize the standard of care for Maine residents, including MaineCare members, and circumnavigate provider licensing requirements.

As written, LD 742 would allow any provider who is licensed in any other state to practice medicine in the state of Maine (via telehealth) with no mechanism for providing regulatory oversight of the provider or ensuring the quality of care provided, other than requiring a referral from the patient's primary care provider. This limits the State's ability to hold OOS providers accountable for telehealth services delivered to MaineCare members.

Requiring Maine primary care providers (PCPs) to make referrals for OOS telehealth services also does not improve the delivery of, or member access to, telehealth services. Given that PCPs are already overburdened, it's unrealistic to expect primary care providers to have the time or resources to appropriately review the background and license history of OOS providers. Any time spent doing so would represent unreimbursed time that takes away from their availability to see and treat patients. Additionally, the added step of obtaining a referral could cause confusion for members and create unnecessary barriers to accessing care.

This bill has potential implications for MaineCare policies related to prior authorization (PA) of OOS services, and, in turn, the capacity of the PA unit and turnaround time on PAs. This bill also raises questions regarding the potential tradeoff between prioritizing access to expanded services outside of Maine and the interest in supporting the provision of services by in-state providers who may also be able to see the patient in-person as appropriate and may be better positioned to coordinate care with other Maine-based providers. MBM Ch. 1, Section 4.06 requires all providers to allow MaineCare members the choice to receive certain services either via telehealth or in-person at any point during the course of the service. If a service were only made available remotely by an OOS provider, in most cases the member will lose that ability to choose as the only care delivery option would be via telehealth.

Substantial MaineCare system and policy changes would be required for the Department to accommodate OOS provider telehealth services as proposed in LD 742. This includes substantial and time-intensive changes to enable the system to recognize providers as telehealth only providers. This bill would also require MaineCare to overhaul how it currently reimburses for telehealth services. When conducting rate determinations in accordance with 22 M.R.S. § 3173-J, the Department factors in costs associated with delivering services in person. Reimbursement rates for many services would need to be redetermined for services not currently delivered via telehealth.

Many sections of the MBM have specific provisions related to the delivery of telehealth services; the Department would be required to request the necessary state plan amendments from the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services, adopt routine technical rules upon federal approval, and enhance systems to operationalize any new reimbursement methodology at significant expense to the Department. Changes to reimbursement amounts and methodology would result in reimbursement and billing process changes for both impacted providers and the Department.

The Department encourages the committee to oppose this bill in recognition of the negative impact it would have on MaineCare members and Maine-based medical providers. Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Probert", written in a cursive style.

Michelle Probert

Director

Office of MaineCare Services

Maine Department of Health and Human Services