



Maine Trial Lawyers Association

160 Capitol Street, P.O. Box 438, Augusta, Maine 04332-0438
(207) 623-2661 • FAX (207) 621-0118
mtla@mtla.org

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MTLA Testimony in Opposition to LD 899, An Act to Strengthen the Requirements for Medical Payments Coverage HCIFS Committee, March 18, 2024

Senator Bailey, Representative Gramlich and Honorable Members of the HCIFS Committee:
The Maine Trial Lawyers Association (the MTLA) respectfully opposes LD 899.

I. The proposed legislation strips consumers of freedom to make comprehensive healthcare and healthcare payment decisions.

As the Committee has already been made aware, the MTLA is concerned that, if enacted, LD 899 would interfere with the autonomy of Maine consumers to make comprehensive decisions regarding their healthcare and healthcare payments to their medical providers.

As was pointed out at the hearing on the proposed legislation, LD 899 strips consumers of the right to decide whether to use their casualty coverage or medical payment coverage to pay for health care treatment. This is patently unfair to consumers because one policy may have more consumer-friendly payment, subrogation, or other policy provisions in it than another and consumers should have the benefit of choosing which policy they want to use when making health care payments.

By way of analogy, requiring health care providers to bill a health insurance company before an automobile insurance company without consultation and approval from a healthcare recipient is no different than requiring Hannaford to take American Express credit cards before accepting ATM cards or Visa credit cards, regardless of whether the terms and interest rates associated with one form of payment are more favorable than the other. Put simply, there is a significant risk that if this legislation passes, consumers could suffer unintended financial and other harm.

In addition, as pointed out in healthcare provider testimony, the bill may unintentionally deny consumers the right to allocate health insurance coverage to care that is not related to an automobile crash or other casualty event. For example, if a consumer is only allocated ten physical therapy, acupuncture, or chiropractor visits per calendar year under a healthcare plan, they may wish to use those visits for needs that do not arise out of an automobile crash. Yet, under the proposed legislation, they could be forced to use those visits up for crash-related care. Then, later in the year, the consumer could then be left unable to pay for necessary physical therapy, acupuncture or chiropractor treatment and/or paying out of pocket for the full cost of that treatment.

II. The proposed legislation is likely to create additional burdens for healthcare providers, many of whom are already understaffed, overworked, and resource deprived.

If enacted, the legislation could place unnecessary burdens on healthcare providers, some of whom are small business owners and/or are already understaffed and resource deprived. As noted in the testimony of one or more providers, the language of the proposed legislation suggests that providers may be required to bill the patient's health insurance *even when the patient has already exhausted their benefits.*

III. There is a concern that this legislation may be inconsistent with Medicare requirements and could result in problems for Medicare recipients.

The MTLA is also worried that the bill may require consumers and providers to violate

Medicare law. It is understood that Medicare recipients must exhaust available and applicable medical payment coverage before Medicare plans will pay for care. This proposed legislation suggests the opposite and could have the unintended effect of Medicare plans withholding payments to providers, consumers being denied treatment, and/or unpaid or delayed bills being sent to collection. Similarly, if Medicaid healthcare plans are billed before casualty insurers, taxpayers will be carrying the costs of government programs paying for medical bills when those same bills could be submitted to private insurance carriers, which makes little financial or other sense.

In summary, this bill does not serve Maine consumers. Instead, it creates hurdles and compounding problems for people who have been involved in car crashes and other unfortunate events, and it interferes with consumers' right to make choices about healthcare treatment and costs.

We urge you to vote "Ought Not To Pass" on LD 899.