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April 3, 2025

Senator Ingwersen, Chair
Representative Meyer, Chair
Members, Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, ME 04333-0100

Re: LD 1125 – *An Act Regarding the Impact of Certain Nonemergency Transportation Services Contracts on Community Action Agency Programs*

Senator Ingwersen, Representative Meyer and members of the Joint Standing Committee on Health and Human Services, thank you for the opportunity to provide information in opposition to LD 1125, *An Act Regarding the Impact of Certain Nonemergency Transportation Services Contracts on Community Action Agency Programs*.

This bill requires the Department of Health and Human Services (the “Department”), prior to entering into a contract with an entity to provide MaineCare (Medicaid) non-emergency transportation (NET), to consider the financial impact on existing programs provided by community action agencies (CAAs).

LD 1125 is vague as currently drafted. The scope of this “consideration” isn't clear, nor is the expected consequence of that review. The Department interprets the intention of the bill to be to provide an extra advantage to CAAs during NET broker procurements, possibly giving higher scores to CAA bidders, or bidders with CAA subcontractors, to ensure that their programming, including programming beyond NET, remains financially viable. In addition to the impact on NET procurements, this could have wide-ranging effects on all other types of procurements.

Maine law and rules governing Requests for Proposals (RFPs) and Requests for Applications (RFAs) are governed by Maine Revised Statutes (MRS) Title 5, Section 1825-A through 1825-E and Chapter 110 & 120 in 18-554 of the Code of Maine Rules (CMR), with the Division of Procurement Services handling the process. The Department already reviews an entity’s general financial viability as part of the procurement process. The Department is concerned that, in addition to circumventing and violating existing procurement statute and process, this bill could potentially direct state and federal taxpayer dollars to CAAs without sufficient consideration given to agency capacity or ability to meet contract performance requirements. This could jeopardize MaineCare members’ access to and safety during transportation to their MaineCare covered services.

Additionally, the financial viability of non-NET programs run by CAAs is outside the purview of a NET procurement. Generally, the Department cannot make awards based on the impact on other programs within a bidder’s organization, whether that organization is for-profit or non-profit. It is unknown how the Department would assess such impact or determine the basis for awarding or deducting points; the bill does not describe such things, any one of which would require the amendment of federal and state procurement rules to permit consideration of such factors. Moreover, per OMB Circular A-87, Medicaid funds may not be used to pay for or subsidize non-Medicaid programs. The Department could lose federal

funding for its NET program should a procurement or resulting contract be in violation of state and/or federal law. With this program providing millions of rides a year to MaineCare members who have no other means of transportation to their MaineCare covered services, such a funding loss would be untenable for members' ability to access critical healthcare services.

Additionally, each year the Department engages with an actuarial vendor to set rates for the NET brokers for the upcoming contract year based on the previous years' expenditures and transportation utilization. It is possible this bill could have an impact on that contract and rate-setting process and on the resulting rates, including a potential fiscal impact, but there is not enough information in the bill to assess the impacts in more detail.

Finally, LD 1125 would potentially require the Division of Contract Management and the Department of Administrative and Financial Services to alter their established procurement procedures, which will require substantial staff time and effort.

LD 1125 would require the Department to consider broader fiscal impacts on CAAs during NET procurements; this proposed statute would conflict with the current requirements for evaluating bids, could result in inequitable evaluations, could result in awards that do not serve the best interest of MaineCare members or the Department, and could jeopardize federal funding for this critical transportation program. The Department strongly recommends upholding established procurement processes as outlined in 5 MRS 1825-A through 1825-E and CMR Ch. 110 & 120.

Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,



Michelle Probert
Director
Office of MaineCare Services
Maine Department of Health and Human Services