



STATE OF MAINE
HOUSE OF REPRESENTATIVES
SPEAKER'S OFFICE
AUGUSTA, MAINE 04333-0002
(207) 287-1300

RACHEL TALBOT ROSS
SPEAKER OF THE HOUSE

Wednesday, April 12th, 2023

Testimony of Speaker Rachel Talbot Ross presenting
LD 1204, An Act to Improve the Health of Maine Residents by Closing Coverage Gaps in the MaineCare Program for Incarcerated Persons
Before the Joint Select Committee on Health & Human Services

Senator Baldacci, Representative Meyer, and distinguished members of the Joint Standing Committee on Health and Human Services. My name is Rachel Talbot Ross and I proudly represent House District 118 which consists of the Portland neighborhoods of Parkside, Bayside, East Bayside, Oakland and the University of Southern Maine Campus. I also have the distinct honor of serving as the Maine Speaker of the House.

I am honored to present LD 1204, An Act to Improve the Health of Maine Residents by Closing Coverage Gaps in the MaineCare Program for Incarcerated Persons, to you this afternoon as a continuation of my steadfast commitment to health equity and access to healthcare for all who call our great state home. I am encouraged because this bill has strong bipartisan support and is also supported by the Maine Sheriffs Association. As Maine voters have affirmed, access to healthcare is not a partisan issue.

Most people who enter our county and regional jails are eligible for MaineCare. However, once they are incarcerated, while they retain that eligibility, they no longer receive benefits under MaineCare for medical care other than for hospitalizations. Those costs are instead the responsibility of the county jails that have no choice but to pass those bills to the owners of property in those counties. Those costs exceed 1.4 million dollars a year in Somerset County alone; a county with a population just over 50,000 people. Many other Maine counties have much larger populations and accordingly higher jail populations with greater healthcare costs. Those costs are significant as is the resulting burden placed on property tax payers.

Moreover, when incarcerated persons are released from county facilities, there is often a gap between that release and being eligible for the payment of needed medical care by MaineCare. The gap in coverage under MaineCare upon release from county correctional facilities can be catastrophic and the human toll high. Incarcerated people

District 118: Portland neighborhoods of Parkside, Bayside, East Bayside, Oakdale and the University of Southern Maine Campus

returning to their community face a slew of challenges, including life-threatening health risks. Stress surges as these individuals seek housing, access to healthcare, and reconnect to family and the fabric of social life. Some are simultaneously struggling with mental illness and addiction that are difficult to manage when there is a gap in treatment. The potential for peril is particularly acute in the period immediately after release for those with substance use disorders. That gap in care can result in sickness, overdose, and death, or re-incarceration. If care is interrupted, even for a short period of time, the chance of relapse is increased and could lead to another incarceration where healthcare costs repeat and escalate upon reentry thus increasing human suffering and further burdening the property tax payers funding those costs.

LD 1204 addresses these issues in two important ways. The bill as originally drafted requires the Department of Health and Human Services to enter into a memorandum of understanding with all counties in this State that have a county jail or a regional jail to provide a person who is incarcerated in one of those facilities with assistance in applying for and renewing MaineCare services. This assistance will help to prevent gaps in needed medical care, to which the released person is legally entitled, and reduce the harms previously described.

In addition, as amended, this bill requires the Department of Health and Human Services (DHHS) to submit a Section 1115 waiver request to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) to waive certain restrictions for incarcerated individuals under federal Medicaid law. If DHHS submits and is granted a Section 1115 waiver, Maine may be able to access federal funding for medical care provided to incarcerated persons enrolled in MaineCare for a time period approved by CMS prior to their release date. This will not only improve health outcomes, but also reduce the costs of healthcare currently placed on the shoulders of property taxpayers who fund our county jails and bear the costs of providing healthcare to incarcerated persons in their counties.

California has already been approved for a partial Section 1115 waiver for this purpose and Arizona, Montana, Utah, Kentucky, New Hampshire, and Vermont are among fourteen states with pending proposals to similarly change their policies. As United States Secretary of Health and Human Services Xavier Becerra said when discussing the Section 1115 waiver granted to California, “[t]his is the first time in history Medicaid will be providing coverage to justice-involved individuals before they’re released. It is a step forward in closing gaps in services this under-served community experiences, and I encourage other states to follow California’s lead.”

Ultimately, this bill will improve the health of incarcerated persons by ensuring that needed medical care, including treatment for substance use disorders and other physical and mental health challenges that they were receiving while in our county and regional jails, will still be accessible when they transition back to their communities. This also increases their chances for successful reentry into those communities and increases their chances for a brighter future. Successful reentry benefits all of us and successful reentry is more likely when serious health issues can continue to be treated immediately upon release.

In summary, LD 1204 as amended will enhance healthcare provided to individuals while incarcerated in county and regional jails, and when they are released. It will also reduce the property tax burden placed upon property owners for healthcare costs incurred in those correctional facilities should Maine be approved for a 1115 waiver. It will lead to more cases of successful reentry to the larger society thus lifting not only formerly incarcerated people but the State of Maine as a whole.

I urge you to support LD 1204. Thank you very much for your time and attention this afternoon. I am happy to answer any questions you have.

An Act to Improve the Health of Maine Residents by Closing Coverage Gaps in the MaineCare Program for Incarcerated Persons

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3174-CC, as repealed and replaced by PL 2019, c. 492, §2, is amended to read:

§3174-CC. Medicaid eligibility during incarceration

1. Establish procedures. The department shall establish procedures to ensure that:

A. A person receiving federally approved Medicaid services prior to incarceration in a correctional facility, county jail or regional jail does not lose Medicaid eligibility as a result of that incarceration and receives assistance with reapplying for benefits if that person's Medicaid coverage expires or is terminated during the term of incarceration; and

B. A person who is not receiving federally approved Medicaid services prior to incarceration in a correctional facility, county jail or regional jail but meets the eligibility requirements for Medicaid receives assistance with applying for federally approved Medicaid services.

2. Presumptive eligibility. If a MaineCare provider determines that a person who is incarcerated in a correctional facility, county jail or regional jail who does not have Medicaid coverage is likely to be eligible for services under this section, the provider must be reimbursed for services provided under this section in accordance with 42 Code of Federal Regulations, Section 435.1101.

3. Memorandum of understanding with Department of Corrections. The department and the Department of Corrections shall enter into a memorandum of understanding in order to provide an a person who is incarcerated person in a correctional facility with assistance in applying for benefits under this section and section 3104, subsection 17.

4. Memorandum of understanding with counties. The department shall enter into a memorandum of understanding with counties in this State that have a county jail or a regional jail in order to provide a person who is incarcerated in a county jail or a regional jail with assistance in applying for benefits under this section.

The provisions of this section apply even if Medicaid coverage is limited during the period of incarceration in a correctional facility, county jail or a regional jail. Nothing in this section requires or permits the department to maintain an incarcerated person's Medicaid eligibility if the person no longer meets eligibility requirements.

5. Request for Federal waiver. No later than 12 months after the effective date of this Act, the Department of Health and Human Services shall request a waiver in accordance with 42 Code of Federal Regulation, Subpart G, Section 1115 waiver to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

SUMMARY

This bill requires the Department of Health and Human Services to enter into a memorandum of understanding with counties in this State that have a county jail or a regional jail in order to provide a person who is incarcerated in a county jail or a regional jail with assistance in applying for MaineCare services. This bill also requires the Department of Health and Human Services, within 12 month of the effective date, to apply to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services for a waiver for services for residents of county or regional jail facilities prior to their release.