Maine Association
of
Health Plans

Testimony of Dan Demeritt – 4/24/23
Joint Standing Committee on Health Coverage, Insurance, and Financial Services

In Opposition to LD 1407
An Act to Amend the Maine Insurance Code Regarding
Payments by Health Insurance Carriers to Providers

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

My name is Dan Demeritt, the Executive Director of the Maine Association of Health Plans (MeAHP). Our plans include Anthem Blue Cross and Blue Shield, Cigna, CVS / Aetna, Community Health Options, Harvard Pilgrim Health Care, and United Health Care. Our private and non-profit insurance carriers provide or administer health insurance coverage to about 600,000 Maine people. Our mission as an association is to improve the health of Maine people by promoting affordable, safe, and coordinated healthcare.

The Maine Health Data Organization reports that the median profitability ratios at Maine's hospitals are the highest in five years in terms of operating margin, total margin, return on equity, net operating income, and total surplus.[1]

Former Superintendent of Insurance Eric Cioppa noted in testimony to the 130th legislature that there are few provisions in the Insurance Code pertaining to carriers' agreements with providers. These agreements, his testimony reported, have largely been left to private contract negotiation with carriers and providers.[2]

LD 1407 proposes to fundamentally change that. The bill before you creates advantages for providers in private contracts that can be used to protect revenue streams and block updates to contracts for up to a year-and-a-half.

If this bill becomes law, providers can unilaterally and without justification prevent updates that may be needed to modernize practices, enhance affordability, adjust to statutory or regulatory changes, or improve patient outcomes.

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[1] Maine Health Data Organization, Standardized Hospital Financial Data Report I, profitability ratios, p.6-12. https://mhdo.maine.gov/_pdf/20221017_Report_I_2017-2021_v6.pdf

[2] Testimony on LD 945, 130th Legislature
http://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=150058

P.O. Box 193, Orono, Maine 04473 207-852-2087

The most notable provision of this proposal is that carriers must provide a good faith estimate of the total financial impact of an amendment. This insinuates that decisions about changes allowed by contract should be made based on a financial impact to providers.

Not evidence-based medicine.

Not affordability.

Not better care or outcomes for patients.

This bill would essentially legislate a one-sided advantage in private payor-provider contracts based on the provider's bottom line. This is not good for patients.

The contracting process is a sophisticated negotiation between two parties and decisions about what changes can or can't occur in the middle of a contract cycle should be left to the parties.

This legislation would result in unfair legal precedent and bad healthcare policy.

I will finish my testimony with a mention of the MaineCare provider agreement by way of comparison.

Our state's public payor-provider agreement is never subject to negotiation and is updated automatically the day a new law or regulation goes into effect. A provider objecting to the change has 30 calendar days to notify the Department it is terminating the agreement and failure to notify is deemed acceptance of the change. [3]

Providers can adjust to changes required of them by public payors. Private-party negotiations between health plans and providers allow for negotiations and is a model that is workable in its current form.

Thank you for your consideration. We strongly urge you to vote "ought not to pass" on L.D. 1407.

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3 https://mainecare.maine.gov/Provider%20Forms/Provider%20Enrollment/Prov_Agrmt_Medicaid20180615_840041.23_C.pdf