

**Testimony of Kirsten LC Figueroa, Commissioner  
Department of Administrative and Financial Services**

**Before the Joint Standing Committees on  
Appropriations and Financial Affairs  
and  
Health Coverage, Insurance and Financial Services**

**“An Act to Make Supplemental Appropriations and Allocations for the  
Expenditures of State Government, General Fund and Other Funds, and to  
Change Certain Provisions of the Law Necessary to the Proper Operations of  
State Government for the Fiscal Years Ending  
June 30, 2024 and June 30, 2025”**

**February 28, 2024**

Good afternoon, Senator Rotundo, Representative Sachs, and members of the Joint Standing Committee on Appropriations and Financial Affairs; Senator Bailey, Representative Perry and members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services. I am Kirsten Figueroa, the Commissioner of the Department of Administrative and Financial Services. I am here today to present the fiscal year 2024-2025 supplemental budget bill, specifically the one DAFS item on today’s agenda, the State Benefit Mandate Defrayal.

The supplemental budget is a balanced, prudent, and responsible proposal that advances the Governor’s long-held belief that we must continue to invest in the people of Maine, our greatest asset.

That is why the Governor’s proposal strikes the balance between making timely investments to address urgent needs – like public safety, mental health, housing, education, and health care – and saving money to ensure that our state continues to stand on strong fiscal footing in the future.

We look forward to working with the Legislature in the coming weeks to arrive at a budget that protects our fiscal health and that makes prudent and timely investments to support the health, safety, and welfare of Maine people.

## **Department of Administrative and Financial Services**

The Department of Administrative and Financial Services (DAFS) consists of ten bureaus, a handful of boards and commissions, and more than 1,200 employees serving the public and all three branches of state government.

The Department has a broad range of responsibilities. We serve as the principal fiscal advisor to Governor Mills, prepare the state budget, coordinate the financial planning and programing activities of state agencies, prepare the financial records of the state, and advise the Maine Legislature on the economic status of the state and financial statutes of state government.

Additionally, DAFS oversees all aspects of: human resources, including employee benefits, contract negotiations, recruiting, retaining, training and performance; information technology services, including cyber security, data management, application development, project management, technology infrastructure, accessibility, and network services; maintenance, repairs and capital improvements of state-owned buildings and grounds; leased space; procurement, contracting and vendor management; state postal services; surplus property; tax collection, tax law and tax policy; and fleet management.

Various internal services for state agencies are provided by the Department, including review of accounting transactions and procedures and the implementation of account controls. We oversee three state-owned landfills. We also administer the state's lottery operations, medical and adult use cannabis programs, and the sale of distilled spirits within Maine's borders.

DAFS employees are respected as conscientious stewards of the State's assets: fiscal, human, physical and technical. We are valued for the professional expertise we provide that ensures State departments and agencies efficiently, effectively, and economically fulfill their important missions for the people of Maine. We lead and collaborate with open doors, open minds, and open hearts.

DAFS has six committees of jurisdiction – plus significant interaction with the Joint Standing Committee on Appropriations and Financial Affairs. Today's testimony is the HCIFS-related initiatives.

## **State Benefit Mandate Defrayal (Z373)**

The initiative on **page A-6** in the **State Benefit Mandate Defrayal** program is for ongoing funding to cover the state benefit mandate defrayal related to the changes in law made by Public Law 2021, chapter 692, An Act to Provide Access to Fertility Care. This law requires carriers to include coverage for fertility care in health plans offered in this state.

By way of reminder, under the Affordable Care Act (ACA), the federal government provides tax credits and cost sharing reductions to eligible individuals who buy Qualified Health Plans (QHPs) on the Health Insurance Marketplace. This subsidy program began in 2014, and since that time states have been required to defray the costs of all newly created mandated health benefits that are included in QHPs, unless those mandates are required as part of the ACA's essential health benefit (EHB) package.

What this means, at a high level, is that if Maine mandates coverage beyond the essential health benefits in Maine's EHB package, the state must cover the cost by reimbursing the carriers that offer QHPs (QHP issuers). Generally, any mandate adopted by a state after December 31, 2011, has been excluded from the essential benefit package by federal regulators and thus is subject to the requirement for the state to defray the cost.

It is important to note that the defrayal only represents the costs of this mandate for individual coverage sold on CoverME.gov. Small and large group plans are also required to offer this benefit, and so are off-Marketplace individual plans. The cost of adding this mandate to those plans is an element of carriers' calculations of premiums.

To estimate the impact of a mandate, the state, with input from QHP issuers, must quantify the cost attributable to each additional required benefit based on an actuarial analysis. The amount to be reimbursed to QHP issuers will be based on the actual costs incurred in providing the mandated benefit. Although PL2021, chapter 692 passed without a fiscal note, \$3.8 million was later appropriated in Public Law 2023, chapter 17 based on an actuarial analysis of the estimated costs of providing fertility services. The Legislature, in Public Law 2023, chapter 412, eliminated the ongoing appropriation and instead appropriated \$3.8 million in fiscal year 2024 and fiscal year 2025 on a one-time basis.

This results in the program having no baseline budget for 2026-2027, requiring the Department to request the funding again from the 132<sup>nd</sup> Legislature as if this were a new initiative. It is not. Absent the federal government granting a request by the state to adjust the EHB package through a complicated years-long process, Maine will be required to pay this defrayal. While Maine considers options for adjusting our essential benefits plan, it is highly unlikely any change could occur before the 2027 plan year.

The defrayal account and payment process is shared between DAFS and the Bureau of Insurance (BOI). The Program is in DAFS; rules and mandate studies to estimate defrayal costs as well as finalizing actual payments are in BOI. Once determined through the BOI process, DAFS will issue the payments to the relevant carriers. Currently, BOI is developing the rules related to this specific fertility benefit and the relevant defrayal payments. As soon as those rules are finalized and payments are due under the terms of the rule based on the carriers' actual costs, BOI will get payment information to DAFS and we will process those payments. The State Benefit Mandate Defrayal program was not set up as a carrying account. However, because the first payment likely won't occur until the beginning of calendar year 2025 and considering the \$3.8 million is an estimate and actual costs are not yet known, we would suggest it be made a carrying account. This will ensure we are not short in the amount needed for our first payment for actual services required by law. We will propose language in the Supplemental Change Package for this change.

The defrayal process is complicated and we are new to navigating it and administering it. There are currently three LDs being worked this session that could also result in defrayal payments and could need rules and ongoing appropriations into this State Benefit Mandate Defrayal program if passed:

- LD 132, relates to coverage of PFAS testing. Actuarial projections of this mandate benefit defrayal are estimated at \$180,000 per year, starting in fiscal year 2025.
- LD 1577, relates to coverage of biomarker testing. Actuarial projections of this mandate benefit defrayal are estimated at \$340,000 per year, starting in fiscal year 2025.
- LD 663, relates to coverage of the treatment of Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome. Actuarial projections of this mandate benefit defrayal are estimated at \$790,000 per year, starting in fiscal year 2025.

As an alternative to funding ongoing appropriations and the State making defrayal payments, Maine could do what some other states have done and include language in the legislation that states that the coverage will be effective if the federal government determines that the coverage does not constitute an additional benefit that requires defrayal by the state.

Given the above, the budget includes two initiatives on **page A-6**. The first initiative eliminates the one-time appropriation. The second initiative provides the ongoing funding. There is no fiscal impact to the 2024-2025 biennium. The intent is to appropriately fund the baseline budget for an ongoing program and payment expectation enacted by the Legislature.

This concludes my testimony. I'm happy to take questions for the work session where BOI will be in attendance. Thank you.