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Governor

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Commissioner



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Senator Joseph Rafferty, Chair
Representative Michael Brennan
Members, Joint Standing Committee on Education and Cultural Affairs
100 State House Station
Augusta, ME 04333-0100

Senator Rafferty, Representative Brennan, and Members of the Joint Standing Committee on Education and Cultural Affairs:

This letter is to provide information regarding *Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services*.

Page 15 of the draft bill language (section 1(A)) references identifying "necessary revisions" to the "MaineCare Billing Manual." To the extent this is intended as a reference to the MaineCare Benefits Manual (MBM), it is important for the Committee to understand that modifying the MBM rests with DHHS and that any modifications must accord with both federal Medicaid law (including approvals from the Centers of Medicare and Medicaid Services (CMS)) and state law (including rulemaking).

This draft bill, under sections E.1.b and E.2.h, directs MaineCare to report the total dollar amount of claims paid for each of the last three fiscal years and to report the percentage of children who had received MaineCare coverage for all or some of the services specified in the IEP, respectively. It is important to understand that MaineCare is currently not able to capture all services being provided at this time due to limitations with our claims system, compliance issues with IEPs as currently written, and provider billing practice inconsistencies. The Department intends to address the issue of identifying claims through a new consolidated school-based rule. In a response to public concerns on the draft rule, the Health and Human Services Committee has reviewed and voted LD 854 as "Ought to Pass as Amended" requiring in part any new school-based services rule to be "Major Substantive" and subject to legislative review before becoming effective. This will result in a delay for MaineCare to accurately capture data on medical services expended in accordance with an IEP/IFSP.

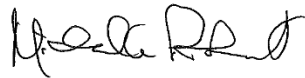
On page 13, the draft bill directs The Department of Education to develop an implementation plan in accordance with the steps identified in PCG's report titled "Maine Early Childhood Special Education Implementation Plan December 1, 2020," Recommendation 2.1 directs billing to start again for special instruction, which is sometimes referred to as developmental instruction/developmental therapy. Regarding Special Instruction, through consultation with CMS on other projects, it has been made clear that Medicaid cannot reimburse for education or academic instruction. Regarding Developmental Therapy, this is not a service that is currently defined in statute or in Maine Unified Special Education Regulation, so it is unclear what health related service is needed for youth that is not otherwise already available. Another challenge is who would provide this service. Some states credential staff for these services through Developmental Therapist

certifications. Maine does not have such a credential currently. Given the lack of clarity on need for medical service and identification of the professional delivering the service, it is unclear if there is a need here and if said need could be approved by CMS.

Lastly, the PCG report titled "Maine Early Childhood Special Education Implementation Plan December 1, 2020," through Recommendation 2.2, directs DOE to work with MaineCare to establish an early intervention services section of the MaineCare Benefits Manual. MaineCare is not opposed to this; however, we recommend that any decision on the need for a separate rule be made in coordination with DOE to assure that any future early education policy best meets the needs of the students and the districts in which they are served.

We wanted the Committee to be aware of the above information as it considers this bill moving forward. If you have any further questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Probert", written in a cursive style.

Michelle Probert
Director
MaineCare Services