

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: March 25, 2021
To: Joint Standing Committee on Health & Human Services
From: Erin Dooling, Esq., Legislative Analyst

LD 590 An Act To Require MaineCare Coverage for Ostomy Equipment

SUMMARY: This bill requires the MaineCare program to reimburse for ostomy equipment and supplies without prior authorization or limitation when recommended or prescribed by a physician. The reimbursement rate must be no less than the cost of the equipment. The Department of Health and Human Services is required to adopt implementing rules no later than January 1, 2022.

PROPOSED AMENDMENTS FROM TESTIMONY:

- *Maine Nurse Practitioner Association:* Include nurse practitioners, physician assistants and other health care providers who order ostomy supplies

ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:

- What is the dollar amount of 85% of the 2011 Medicare rate? *See attached*
- What is the cost of a 90 days of ostomy supplies?
→ *The Department is not able to determine this, the answer would have to come from providers/suppliers*

FISCAL IMPACT: Not yet determined.

<i>Some experiences described in public testimony</i>	<i>Information from MaineCare</i>	<i>Relation to LD 590 as drafted</i>
The number of initial ostomy supplies are limited.	There are no limits on ostomy supplies other than a PA is required for dispensing more than a 90-day supply. Typically ostomy supplies are dispensed in small quantities. During calendar year 2020, no PAs were requested for ostomy supplies beyond 90 days.	Bill would remove prior authorization requirement.
Reimbursement covers generic supplies and requires more product to be used because the quality is poor.	MaineCare has an ongoing rate study evaluation which is assessing rates. Providers may submit a rate change request if a rate for a specific code is inadequate and/or does not cover the cost of the item. However, requesting a rate increase to cover on-brand items is unlikely to yield a change. MaineCare does not specify which product to use- we approve a code which has a set rate. It is the DME dealer that would then have to find a product that could be fiscally reasonable.	Bill provides that reimbursement must be at no less than the cost of the equipment being provided. <ul style="list-style-type: none"> • <i>What happens if DME providers increase costs? + see DHHS testimony</i>
MaineCare doesn't cover the supplies that work for a particular patient's needs (esp. in pediatrics).	If a particular ostomy item is not covered, providers should submit a code request for MaineCare to cover it. Sometimes a code can be the same so no new code request is needed. In that situation, they are handled on a case by case basis through the PA process. We would request from the DME dealer a clinical reason as to why a more expensive product is required. We would expect to see a letter of medical necessity from the ordering provider. This would be reviewed and we would add the higher rate for just that member on that PA.	Bill would remove prior authorization requirement. <ul style="list-style-type: none"> • <i>Are PAs and letters of medical necessity the same?</i> • <i>Should bill provide that all ostomies are medically necessary?</i>
Ostomy supplies need PAs and a letter of medical necessity.	Ostomy supplies only need a PA when more than a 90-day supply is dispensed. PAs would be required if the product to be delivered cost more than the MaineCare allowable.	Bill would remove prior authorization requirement.
Ostomy supplies need items that fit together as a system and are generally not interchangeable but the reimbursement amount doesn't cover everything.	Each ostomy item that MaineCare covers has a rate. There is no overall reimbursement cap for ostomy supplies.	Bill provides that reimbursement must be at no less than the cost of the equipment being provided.

RELATED INFORMATION:

- Ostomy supplies are not included in the DME Upper Payment Limit (UPL)
- [MaineCare Benefits Manual, Chapter 2, Section 60.07-3\(A\)](#)

60.07 LIMITATIONS (cont.)

60.07-3 Limitations for Dispense of Disposable Medical Supplies:

- A. The Department shall authorize dispense of up to a ninety (90) day supply of items considered to be disposable medical supplies when medically necessary and all prior authorization approval has been obtained. The Department considers disposable medical supplies to include, the following:
1. Incontinence Supplies
 2. Urological Supplies
 3. Ostomy Supplies
 4. Diabetic Supplies