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Testimony of the Office of MaineCare Services
Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

In Opposition to LD 854
An Act to Ensure Continued School-Based Services for Children with Disabilities

Sponsor: Representative Meyer
Hearing Date: April 7, 2021

Senator Claxton, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services, my name is Michelle Probert. I am the Director of MaineCare Services. I am here today to speak in opposition to LD 854, *An Act to Ensure Continued School-Based Services for Children with Disabilities*.

This bill directs MaineCare to provide coverage for school-based services in developmental preschools for children from birth to 5 years of age. It designates any rules adopted pursuant to this LD as major substantive rules under the Maine Revised Statutes and requires the Department when drafting those rules to convene a stakeholder group and take into account the findings from the independent review of the State's early childhood special education services being carried out pursuant to Public Law 2019, Chapter 343, Part VVVV.

The Department initially interpreted the bill to require it to provide direct services already provided by Child Development Services (CDS) within the Maine Department of Education (DOE), but now understands that this is not the intent and that the bill will be amended to address this.

MaineCare allows schools and private agencies to enroll as MaineCare providers and to be reimbursed for health-related, covered services described in the student's Individualized Education Program (IEP) that are delivered in school settings to enable children to access their education. Additional services that are not covered by MaineCare may be paid for through DOE, which has oversight of CDS and is the approving authority in Maine for Special Purpose Private Schools and programs. MaineCare has continued work on a new School Health-Related Services policy and anticipates being ready to propose a new rule before the end of this year. The Department intends to continue engaging with stakeholders regarding the proposed changes and also to delay implementation of the new rule post adoption to allow sufficient time for education and training before it takes effect.

The Office of MaineCare Services supports providing coverage for school-based services in developmental preschools. We understand that there are stakeholder concerns with the current models of service delivery in preschools. DOE is currently the lead state agency on addressing recommendations being made through the Early Childhood Special Education system evaluation and the Education and Cultural Affairs Committee; however, MaineCare staff have also been

monitoring the early childhood discussion occurring in the Education and Cultural Affairs Committee and plans to review the recommendations and incorporate necessary changes to support the early childhood system into the new section of MaineCare policy.

In undertaking this work, the Department is committed to listening to stakeholders. As we prepare to adopt our School Health Services policy, MaineCare will work closely with DOE to ensure that the needs of students will be met while ensuring compliance with CMS requirements and limitations. Stakeholders listed specifically in this bill have been reviewing the early childhood system and are also collaborating with DOE in this process. The Department anticipates that its new rule will take effect in July of 2022, which will allow for stakeholder engagement regarding key considerations to be included, followed by a robust public comment process.

The Department is concerned about the bill's change in designation of rulemaking for services provided in schools from Routine Technical to Major Substantive. Currently, services allowable in schools for youth from birth to age five span multiple MaineCare sections of policy, including Occupational Therapy, Physical Therapy, Speech Therapy, Nursing Services, Behavioral Health Services, and Rehabilitative and Community Support Services for Children with Functional Impairments and Cognitive Limitations. Changing each of these MaineCare rules to Major Substantive would have the unintended consequence of creating additional burden for Department staff and the Legislature, including for rule updates that are not education related. This change could delay the availability of critical health-related services to children and to other MaineCare members affected by these sections of policy and make budgetary planning for school districts less certain as they await finality of the rule. Even for the changes that are related to education, delaying the rule for legislative review could have a negative impact on districts' ability to plan and budget for necessary services for students in the upcoming year.

I will be happy to answer any questions you have and will plan to attend the work session.