

**STATE OF MAINE
ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE
SECOND SPECIAL SESSION
SENATE ADVANCED JOURNAL AND CALENDAR**

Monday, July 9, 2018

SUPPLEMENT NO. 5

COMMUNICATIONS

(2-1) The Following Communication:

H.C. 571

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

July 3, 2018

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 401, "An Act To Require Reimbursement to Hospitals for Patients Awaiting Placement in Nursing Facilities."

This bill requires the Department of Health and Human Services to reimburse hospitals in a manner that is not consistent with their real-time reimbursement system that exists today. Acute-care hospitals are reimbursed under a Diagnosis Related Group (DRG) methodology, which pays hospitals in real-time for services rendered versus the old methodology of prospective payments and final cost settlements.

Under DRG methodology, days awaiting placement has been accounted for in the calculation of the reimbursement under each service grouping. Additionally, an outlier payment adjustment is made to the rate when an unusually high level of resources has been expended for a case, such as when a member is waiting for placement in a nursing facility for an extended period of time.

The responsibility for appropriate and safe discharge of an individual is the responsibility of the hospital. Discharge planners are required to assess the appropriate level of care required, to actively pursue the establishment of services and to secure appropriate placements.

For this reason, I return LD 401 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-2) The accompanying Bill "An Act To Require Reimbursement to Hospitals for Patients Awaiting Placement in Nursing Facilities"

H.P. 292 L.D. 401

Comes from the House with the **VETO OVERRIDDEN**, notwithstanding the objections of the Governor.

(2-3) The Following Communication:

H.C. 572

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

July 3, 2018

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 687, "Resolve, Regarding Reimbursement for Speech and Language Pathology Services."

I am not necessarily opposed to appropriate rate increases for Medicaid providers, but it cannot be in isolation. Our economy is on the brink of a crisis as the minimum wage continues to increase unchecked and Maine businesses experience increasing financial pressure. We cannot continue to spend taxpayer dollars without taking decisive action to slow the rate of increase in the minimum wage and allow our economy the time it needs to adjust to the changing cost of wages. Fix the minimum wage, then we can have a conversation about rate increases to Medicaid providers.

For this reason, I return LD 687 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-4) The accompanying Bill "Resolve, Regarding Reimbursement for Speech and Language Pathology Services."
H.P. 478 L.D. 687

Comes from the House with the **VETO OVERRIDDEN**, notwithstanding the objections of the Governor.

(2-5) The Following Communication:

H.C. 573

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

July 3, 2018

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 700, "An Act to Give Flexibility to Employees and Employers for Temporary Layoffs."

LD 700 creates an exemption from the eligibility requirements for Unemployment Insurance benefits for a period of six weeks. It would exempt a person from the core social contract and federal law underpinning unemployment: that a person collecting benefits actively look for work.

Unemployment Insurance is an insurance program for workers, not an entitlement, with employers paying into the Trust Fund, not employees. The intent of Unemployment Insurance is to protect workers, not employers, yet this bill seeks to protect employers, not workers.

When employees separate from their employment due to no fault of their own, they are eligible to apply for Unemployment Insurance benefits. Unemployment eligibility is complex, but there are three minimum requirements that must be met each week in order to collect unemployment insurance benefits: an individual must be able to work, available for work if a job is offered—including a temporary job, and be actively seeking work.

The goal of unemployment insurance is not simply to provide a temporary wage supplement—its second and equal goal is to keep workers actively connected to the labor market so that they are more easily and quickly re-employed. Therefore, workers under Maine and federal law are required to submit proof that they have actively searched for at least one comparable job per week for each week they apply for unemployment benefits. This is not a burdensome requirement.

Furthermore, these benefits are not a one-to-one wage replacement. Maine statute includes a formula by which benefits are calculated based upon a percentage of a person's earned wages. The average weekly benefit in May 2018 was \$331 per week. This is a wage supplement.

To encourage workers collecting unemployment to take temporary, part-time jobs in our tight labor market, last year my administration increased the amount of benefits workers can retain on top of what they have earned from the part-time job from \$25 to \$100 per week. This now allows a worker to bring home more money per week than either a part-time job or unemployment benefits alone. This is the type of policy the Legislature should be proposing, one that benefits both the worker and the employer.

Workers who look for work and take temporary bridge jobs while collecting unemployment are better off financially and provide tremendous help to our employers in this era of record-low unemployment. Waiving the work-search requirement does not further either of these positive outcomes.

Some employers have complained to the Legislature that they are "losing" workers when their business must temporarily lay off workers. These employers see the exemption from work search as a way to protect their workforce. This is not helpful to workers for two major reasons.

First, there is no guarantee that the "temporary" layoff will not turn permanent. Employers frequently lay off workers while the business waits for a new contract. If the contract fails to come through, those workers are permanently let go or let go for a longer period. It is a disservice to allow workers to collect benefits for several weeks and not be looking for work and then suddenly tell them that they have been permanently laid off. Those workers could already have a new job or at least be supplementing their unemployment with a temporary or part-time job to keep their household on more stable financial footing.

Furthermore, the search for work is actually a net benefit to employees. When employers have to compete to retain and attract workers, wages rise and workers have more choices for better benefits, better hours, better commutes and better work-home balance. When individuals look for work while collecting unemployment, they are exposed to new opportunities that will benefit their career and their family's finances and quality of life.

Shielding workers from the work search obligation is akin to allowing wage collusion among employers to keep wages low. I am not in favor of government-mandated wage increases in Maine's current minimum wage statute, but I am all-in for Mainers earning higher wages and better benefits by finding a new job or getting a raise from their current employer because of open and fair competition.

By passing LD 700, the Legislature is telling Mainers to settle for what they have now instead of doing one work search a week for a job—one that could change their entire future—in exchange for unemployment insurance benefits. No Mainer should be satisfied with settling, and government should not discourage them from seeking greater prosperity.

For these reasons, I return LD 700 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-6) The accompanying Bill "An Act To Give Flexibility to Employees and Employers for Temporary Layoffs" (EMERGENCY)

H.P. 491 L.D. 700

Comes from the House with the **VETO OVERRIDDEN**, notwithstanding the objections of the Governor.

(2-7) The Following Communication:

H.C. 576

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

July 3, 2018

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1762, "An Act To Ensure Sustainable Health Care Access in the Jackman Region."

I appreciate the challenge of maintaining health care resources in rural communities in Maine. When Maine General closed the nursing facility and ceased their ambulance services to Jackman, the community came together and developed solutions to ensure adequate access to emergency health care for their residents. They did an exemplary job solving their own problems and initially doing so without government intervention.

Unfortunately, government intervention ultimately has become the path the community believes is the best way forward. I disagree. This bill sets a terrible precedent by providing one-time resources to solve the challenges of a community. The private sector is better equipped and more appropriate to address this need. Once again, more government is not the answer.

For this reason, I return LD 1762 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-8) The accompanying Bill "An Act To Ensure Sustainable Health Care Access in the Jackman Region" (EMERGENCY)

H.P. 1216 L.D. 1762

Comes from the House with the **VETO OVERRIDDEN**, notwithstanding the objections of the Governor.

(2-9) The Following Communication:

H.C. 580

**STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0001**

July 6, 2018

The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1539, "An Act To Amend Maine's Medical Marijuana Law."

LD 1539 makes drastic changes to Maine's Medical Use of Marijuana Program that remove the premise of medical use from the existing program. To simplify this letter, I will enumerate the major deficiencies of the bill that prevent me from permitting LD 1539 to go into law.

1. LD 1539 eliminates all qualifying medical conditions from the Maine Medical Use of Marijuana Program, allowing access, for any reason, at the suggestion of a medical provider.
2. The bill maintains drug convictions as the only felony that disqualifies an individual from registering as a caregiver, leaving patients vulnerable and the program open to potentially dangerous and violent criminals.
3. This legislation allows for the use of marijuana in any form, a potentially hazardous permission as products such as eye drops, injectables, and tasteless powders are emerging in other states.
4. The bill allows dispensaries, which are currently operating as nonprofits, to convert their status to for-profit, fundamentally altering the nature of their mission and relationship with patients by prioritizing profit over care.
5. LD 1539 requires the Department of Administrative and Financial Services to pay the physician consultation fee for verification of a minor qualifying patient with the medical marijuana fund.
6. LD 1539 makes tax changes that permit dispensaries and caregivers to expense their equipment costs, a costly deviation from current tax law that places Maine in conflict with the federal Internal Revenue Code.
7. The bill removes the employment restrictions on caregivers, allowing for an unlimited number of assistants and prohibiting the State of Maine from drug testing those new assistants as a part of the registry process.
8. This legislation does not require caregivers to provide proof of their sales tax registration with Maine Revenue Services when applying for the registry.
9. This legislation establishes extraction facilities, through the same legislative language I vetoed in LD 238, which would allow these types of businesses to operate in the absence of department rule or certification, posing a significant risk to the public since the legislation allows inherently hazardous materials to be used during extraction.
10. LD 1539 creates a significant new administrative burden on the medical program and provides what could only be described as—in the most generous terms—a modest increase in human resource capacity to meet future program needs.
11. Finally, the bill, nonsensically, requires the development and administration of a medical marijuana research fund but only after having removed all debilitating medical conditions from the program that one may have wished to study.

This is not an exhaustive list of concerns and deficiencies.

Furthermore, this bill disregards the work of your colleagues on the Joint Select Committee on Marijuana Legalization Implementation by using LD 1539 to establish caregivers in a retail marketplace, before it has been launched, with no other qualifications than establishing Maine residency. Given these circumstances, this legislation makes imprudent changes to Maine law. Legislation such as LD 1539 would be more appropriate during the Second Regular Session of the 129th Legislature, once an adult-use recreational program has been established by the Department of Administrative and Financial Services (DAFS) and policymakers have the benefit of input relative to that experience.

Alternatively, I would support standalone legislation that immediately brings more oversight to the medical program, its caregiver participants, and provides the framework necessary for a medical program and recreational program to coexist rather than cannibalize each other.

For these reasons, I return LD 1539 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

(2-10) The accompanying Bill "An Act To Amend Maine's Medical Marijuana Law"

H.P. 1060 L.D. 1539

Comes from the House with the **VETO OVERRIDDEN**, notwithstanding the objections of the Governor.