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February 13, 2023

Senator Baldacci, Chair
Representative Meyer, Chair
Members of the Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, ME 04333-0100

RE: *Resolve, To Improve Access to Bariatric Care*

Senator Baldacci, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services:

Please accept this report pursuant to Resolves 2021, Ch. 180, *Resolve, To Improve Access to Bariatric Care*, which directed the Department to establish 4 bariatric care beds per year for 4 years, and to submit a report on progress to the Committee on Health and Human Services.

Resolves 2021, Ch. 180 directed the Department to, no later than March 30, 2023, issue a request for proposals to award contracts to provide the first 4 bariatric care beds; and, no later than June 30, 2023, award contracts under the request for proposals to establish the first 4 bariatric care beds. However, the contract approach is problematic from a MaineCare/Medicaid perspective. As noted in the Department's letter on the bill, "under federal Medicaid rules, the Department must reimburse any willing and qualified provider for a service: it could not limit the number of providers or beds selected unless it applied for and received a waiver from the federal government." The bill also appropriated no funding for implementation.

The Department met with providers and stakeholders on October 12, 2022 and November 22, 2022 to discuss the best path forward to improve access to bariatric care. Providers voiced concerns with bariatric patients remaining in hospital beds longer than necessary as nursing facilities are reluctant to admit the patients because they sometimes lack the infrastructure and expertise to care for the member, uncertainties around the prior authorization process, and reimbursement for care.

The Department assessed what other states do under their Medicaid programs to reimburse for bariatric care, including meeting directly with staff from MassHealth to discuss how Massachusetts uses add-on payments for nursing facilities to incentive provider care for bariatric patients. Generally, there were not many significant differences between Maine's and other states' method of reimbursement for bariatric care, including the use of prior authorizations.

The Department also conducted further analysis of its own members receiving bariatric care; Using the definition of "bariatric" as MaineCare members who weigh 400 pounds or more and require nursing facility care, MaineCare found 43 bariatric members received nursing facility

care from July 1, 2021 to June 30, 2022. Those members were spread in nursing facilities across the following counties:

Androscoggin	2	Knox	0	Somerset	2
Aroostook	3	Lincoln	1	Waldo	1
Cumberland	7	Oxford	3	Washington	0
Franklin	3	Penobscot	9	York	5
Hancock	0	Piscataquis	0		
Kennebec	6	Sagadahoc	1		

Less than half of those individuals required an additional acute care stay in a hospital after they were admitted to a nursing facility. Those who did had an average acute care stay of 21 days.

Department staff will be meeting with stakeholders and providers again in February 2023 to continue examining ways to incentivize providers to care for bariatric patients and to reduce any regulatory burdens where possible to make the process easier and reimbursement more transparent.

Sincerely,



Michelle S. Probert
MaineCare Director