



# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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Legislative Document

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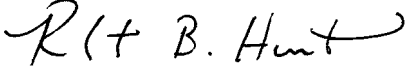
H.P. 680

House of Representatives, March 9, 2023

### **An Act to Increase Transparency of and Lower Health Care Costs**

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Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

  
ROBERT B. HUNT  
Clerk

Presented by Representative MORRIS of Turner.  
Cosponsored by Representative PERKINS of Dover-Foxcroft,  
Senator MOORE of Washington and  
Representatives: ARATA of New Gloucester, BRADSTREET of Vassalboro, NESS of  
Fryeburg, SWALLOW of Houlton, Senator: BRAKEY of Androscoggin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §4318-A, first ¶**, as enacted by PL 2017, c. 232, §8, is  
3 amended to read:

4 ~~Beginning January 1, 2019, a~~ A carrier offering a health plan in this State shall  
5 establish, at a minimum, for all small group health plans as defined in section 2808-B,  
6 subsection 1, paragraph G ~~compatible with a health savings account authorized under~~  
7 ~~federal law~~, a health plan design in which enrollees are directly incentivized to shop for  
8 low-cost, high-quality participating providers for comparable health care services.  
9 Incentives may include, but are not limited to, cash payments, gift cards or credits or  
10 reductions of premiums, copayments or deductibles. A small group health plan design  
11 created under this section must remain available to enrollees for at least 2 consecutive  
12 years, except that any changes made to the program after 2 years, including, but not limited  
13 to, ending the incentive, may not be construed as a change to the small group health plan  
14 design for the purpose of guaranteed renewability under section 2808-B, subsection 4 or  
15 section 2850-B. Incentives must be equal to or greater than 25% of the difference between  
16 the price of the service from the provider selected and the statewide average for the same  
17 covered health care service based on data reported on the publicly accessible health care  
18 costs website of the Maine Health Data Organization. A carrier may use the average price  
19 paid to a network provider for the covered comparable health care service under the  
20 enrollee's health plan in lieu of the statewide average price on the Maine Health Data  
21 Organization's publicly accessible website as long as the carrier uses a reasonable method  
22 to calculate the average price paid. A multiple-employer welfare arrangement is not  
23 considered a carrier for the purposes of this section.

24 **Sec. 2. 24-A MRSA §4318-A, sub-§1, ¶A**, as enacted by PL 2017, c. 232, §8, is  
25 amended to read:

26 A. "Comparable health care service" means nonemergency, outpatient health care  
27 services in the following categories:

- 28 (1) Physical and occupational therapy services;  
29 (2) Radiology and imaging services;  
30 (3) Laboratory services; ~~and~~  
31 (4) Infusion therapy services; and  
32 (5) Surgical procedures.

33 **Sec. 3. 24-A MRSA §4318-A, sub-§8**, as enacted by PL 2017, c. 232, §8, is  
34 repealed.

35 **Sec. 4. 24-A MRSA §4318-B, sub-§1**, as enacted by PL 2017, c. 232, §9, is  
36 amended to read:

37 **1. Services from out-of-network provider; lower prices.** ~~Beginning January 1,~~  
38 ~~2019, if~~ If an enrollee covered under a health plan ~~other than a health maintenance~~  
39 ~~organization plan~~ elects to obtain a covered comparable health care service as defined in  
40 section 4318-A, subsection 1, paragraph A from an out-of-network provider at a price that  
41 is the same or less than the statewide average for the same covered health care service based  
42 on data reported on the publicly accessible health care costs website of the Maine Health

1 Data Organization, the carrier shall allow the enrollee to obtain the service from the out-  
2 of-network provider at the provider's charge and, upon request by the enrollee, shall apply  
3 the payments made by the enrollee for that comparable health care service toward the  
4 enrollee's deductible and out-of-pocket maximum as specified in the enrollee's health plan  
5 as if the health care services had been provided by an in-network provider. A carrier may  
6 use the average price paid to a network provider for the covered comparable health care  
7 service under the enrollee's health plan in lieu of the statewide average price on the Maine  
8 Health Data Organization's publicly accessible website as long as the carrier uses a  
9 reasonable method to calculate the average price paid and the information is available to  
10 enrollees through a website accessible to the enrollee and a toll-free telephone number that  
11 provide, at a minimum, information relating to comparable health care services. The  
12 enrollee is responsible for demonstrating to the carrier that payments made by the enrollee  
13 to the out-of-network provider should be applied toward the enrollee's deductible or out-  
14 of-pocket maximum pursuant to this section. The carrier shall provide a downloadable or  
15 interactive online form to the enrollee for the purpose of making such a demonstration and  
16 may require that copies of bills and proof of payment be submitted by the enrollee. ~~For the~~  
17 ~~purposes of this section, "out-of-network provider" means a provider located in~~  
18 ~~Massachusetts, New Hampshire or this State that is enrolled in the MaineCare program and~~  
19 ~~participates in Medicare.~~

20 **Sec. 5. 24-A MRSA §4318-B, sub-§3**, as enacted by PL 2017, c. 232, §9, is  
21 repealed.

## 22 SUMMARY

23 This bill makes the following changes to the law relating to the comparable health care  
24 incentive program.

25 1. It removes the requirement that the small group health plan design be compatible  
26 with a health savings account.

27 2. It requires that the incentives be equal to or greater than 25% of the difference  
28 between the price of the service from the provider selected and the statewide average for  
29 the same covered health care service based on data reported on the publicly accessible  
30 health care costs website of the Maine Health Data Organization.

31 3. It adds surgical procedures to the categories of health care services included in the  
32 definition of "comparable health care service."

33 4. It repeals the sunset date of the comparable health care service incentive program,  
34 which is January 1, 2024.

35 Under current law, if an enrollee covered under a health plan other than a health  
36 maintenance organization plan elects to obtain a covered comparable health care service  
37 from an out-of-network provider at a price that is the same or less than the statewide  
38 average for the same covered health care service, the carrier is required to allow the enrollee  
39 to obtain the service from the out-of-network provider at the provider's charge and, upon  
40 request by the enrollee, to apply the payments made by the enrollee for that comparable  
41 health care service toward the enrollee's deductible and out-of-pocket maximum as  
42 specified in the enrollee's health plan as if the health care services had been provided by an  
43 in-network provider. This bill removes the exception that the provision does not apply to  
44 a health maintenance organization plan and the limitation defining an out-of-network

1 provider as a provider located in Massachusetts, New Hampshire or this State that is  
2 enrolled in the MaineCare program and participates in Medicare. The bill also removes the  
3 sunset date of the provision of law regarding access to lower-priced services, which is  
4 January 1, 2024.