An Act Regarding Targets for Health Plan Investments in Primary Care and Behavioral Health

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Presented by Representative ZAGER of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §285, sub-§17 is enacted to read:

17. Targets for investment in primary care and behavioral health care. Beginning in plan year 2023, the State shall meet the following requirements related to targets for investment and spending in primary care and behavioral health care in the group health plan.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Behavioral health care" means mental health services, including community-based or peer support treatments for substance use disorder provided by licensed health care practitioners providing services within their scope of practice, regardless of practice setting.

"Behavioral health care" also includes provider loan repayments and services such as health information technology services, recruitment services and practice transformation services that support the practitioners described in this subparagraph in the delivery of behavioral health care services.

(2) "Primary care" means care provided by:

(a) Primary care practitioners, including family physicians, internists, pediatricians and geriatricians, except when practicing inpatient care or when practicing in an emergency department or stand-alone urgent care clinic;

(b) Obstetrician-gynecologists who assume responsibility for a patient's general primary care according to the gynecologic and nongynecologic standards of the United States Preventive Services Task Force or its successor organization except when practicing inpatient care or in an emergency department or stand-alone urgent care clinic;

(c) Physicians or surgeons of any specialty when providing general or reproductive care to special populations or in special circumstances, including, but not limited to, in clinics for persons who are homeless or indigent, federally qualified health centers, home-based palliative care, school-based health centers and general clinics focusing on traditionally marginalized populations such as indigenous or other people of color, immigrants, asylum-seekers, migrant workers, persons who are marginalized on the basis of gender identity or sexual orientation, victims of human trafficking, incarcerated individuals and victims of declared natural or human-caused disasters; and

(d) Advanced practice clinicians providing the services described in divisions (a) to (c).

"Primary care" also includes provider loan repayments and services such as health information technology services, recruitment services and practice transformation services that support the practitioners described in this subparagraph in the delivery of primary care services.

B. Targets for investment and spending by the State in the group health plan for primary care and behavioral health care are established as follows.
(1) For plan year 2023, the group health plan shall determine its baseline percentage of combined spending on primary care and behavioral health care based on claims data reported for plan year 2019 and report that percentage to the Superintendent of Insurance by January 1, 2022. The superintendent shall establish the median percentage for all health insurance carriers for plan year 2023. In subsequent plan years, the superintendent shall recalculate the median so that plan year 2024 is based on claims data reported for calendar year 2023, plan year 2025 is based on claims data reported for calendar year 2024 and plan year 2026 is based on claims data reported for calendar year 2025.

(2) Beginning in plan year 2023 and through plan year 2026, if the group health plan spends less than or equal to the median described in subparagraph (1) on primary care and behavioral health care, the group health plan shall increase its percentage spent on primary care and behavioral health care combined by at least 2% the following plan year over the plan year referenced in subparagraph (1) plus an increase equal to the rate of increase each year in the Consumer Price Index for medical care services as reported by the United States Department of Labor, Bureau of Labor Statistics.

(3) Beginning in plan year 2023 and through plan year 2026, if the group health plan spends above the median described in subparagraph (1) on primary care and behavioral health care, the group health plan shall increase its percentage spent on primary care and behavioral health care combined by at least 1% the following plan year over the plan year referenced in subparagraph (1) plus an increase equal to the rate of increase each year in the Consumer Price Index for medical care services as reported by the United States Department of Labor, Bureau of Labor Statistics.

(4) The Superintendent of Insurance shall recalculate the median for each plan year based on the reference plan year described in subparagraph (1). The requirements of subparagraphs (2) and (3) must be adjusted each plan year based on the group health plan's updated percentage spent on primary care and behavioral health care combined.

(5) The group health plan may demonstrate that the targets required by this subsection are met by averaging its increases in spending on primary care and behavioral health care combined over more than one plan year as long as the total increases required pursuant to this subsection through plan year 2026 are met each year.

(6) For plan year 2027 and each plan year thereafter, the group health plan shall maintain, at a minimum, the total combined spending on primary care and behavioral health care required pursuant to this section for plan year 2026.

The group health plan shall meet the targets required in this paragraph without increasing spending on total health expenditures. The group health plan may also meet the targets required in this paragraph by making supplemental payments focused on primary care and behavioral health care.

Sec. 2. 22 MRSA §3173-J is enacted to read:

§3173-J. Targets for investment in primary care and behavioral health care
Beginning in fiscal year 2023, the department shall meet the following requirements related to targets for investment and spending in primary care and behavioral health care in the MaineCare program.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Behavioral health care" means mental health services, including community-based or peer support treatments for substance use disorder provided by licensed health care practitioners providing services within their scope of practice, regardless of practice setting.

"Behavioral health care" also includes provider loan repayments and services such as health information technology services, recruitment services and practice transformation services that support the practitioners described in this paragraph in the delivery of behavioral health care services.

B. "Primary care" means care provided by:

(1) Primary care practitioners, including family physicians, internists, pediatricians and geriatricians, except when practicing inpatient care or when practicing in an emergency department or stand-alone urgent care clinic;

(2) Obstetrician-gynecologists who assume responsibility for a patient's general primary care according to the gynecologic and nongynecologic standards of the United States Preventive Services Task Force or its successor organization except when practicing inpatient care or in an emergency department or stand-alone urgent care clinic;

(3) Physicians or surgeons of any specialty when providing general or reproductive care to special populations or in special circumstances, including, but not limited to, in clinics for persons who are homeless or indigent, federally qualified health centers, home-based palliative care, school-based health centers and general clinics focusing on traditionally marginalized populations such as indigenous or other people of color, immigrants, asylum-seekers, migrant workers, persons who are marginalized on the basis of gender identity or sexual orientation, victims of human trafficking, incarcerated individuals and victims of declared natural or human-caused disasters; and

(4) Advanced practice clinicians providing the services described in subparagraphs (1) to (3).

"Primary care" also includes provider loan repayments and services such as health information technology services, recruitment services and practice transformation services that support the practitioners described in this paragraph in the delivery of primary care services.

2. Targets. Targets for investment and spending by the department in primary care and behavioral health care are established as follows.

A. For fiscal year 2023, the department shall determine its baseline percentage of combined spending on primary care and behavioral health care based on claims data reported for fiscal year 2019 and report that percentage to the Superintendent of Insurance by January 1, 2022. The superintendent shall establish the median
percentage for all health insurance carriers for plan year 2023. In subsequent plan
years, the superintendent shall recalculate the median so that plan year 2024 is based
on claims data reported for calendar year 2023, plan year 2025 is based on claims data
reported for calendar year 2024 and plan year 2026 is based on claims data reported
for calendar year 2025.

B. Beginning in fiscal year 2023 and through fiscal year 2026, if the MaineCare
program spends less than or equal to the median for all health insurance carriers
described in paragraph A on primary care and behavioral health care, the department
shall increase its percentage spent on primary health care and behavioral health care
combined by at least 2% the following fiscal year over the fiscal year referenced in
paragraph B plus an increase equal to the rate of increase each year in the Consumer
Price Index for medical care services as reported by the United States Department of

C. Beginning in fiscal year 2023 and through fiscal year 2026, if the MaineCare
program spends above the median described in paragraph A on primary care and
behavioral health care, the department shall increase its percentage spent on primary
health care and behavioral health care combined by at least 1% the following fiscal year
over the fiscal year referenced in paragraph B plus an increase equal to the rate of
increase each year in the Consumer Price Index for medical care services as reported
by the United States Department of Labor, Bureau of Labor Statistics.

D. The Superintendent of Insurance shall recalculate the median for each fiscal year
based on the reference fiscal year described in paragraph A. The requirements of
paragraphs B and C must be adjusted each fiscal year based on the MaineCare
program’s updated percentage spent on primary care and behavioral health care
combined.

E. The department may demonstrate that the targets required by this subsection are
met by averaging its increases in spending on primary care and behavioral health care
combined over more than one fiscal year as long as the total increases required pursuant
to this subsection through fiscal year 2027 are met.

F. For fiscal year 2027 and each fiscal year thereafter, the department shall maintain,
at a minimum, the total combined spending on primary care and behavioral health care
required pursuant to this section for fiscal year 2026.

The department shall meet the targets required in this subsection without increasing
spending on total health expenditures. The department may also meet the targets required
in this subsection by making supplemental payments focused on primary care and
behavioral health care.

Sec. 3. 24-A MRSA §2303, sub-§1, ¶B, as enacted by PL 1969, c. 132, ¶1, is
amended to read:

B. Rates shall may not be excessive, inadequate or unfairly discriminatory and, in the
case of health insurance rates beginning for plan year 2023, must comply with the
requirements of section 4319-B.

Sec. 4. 24-A MRSA §4319-B is enacted to read:

§4319-B. Targets for investment in primary care and behavioral health
Beginning in plan year 2023, carriers in the large group, small group and individual markets shall meet the following requirements related to targets for investment and spending in primary care and behavioral health care.

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Behavioral health care" means mental health services, including community-based or peer support treatments for substance use disorder provided by licensed healthcare practitioners providing services within their scope of practice, regardless of practice setting.

"Behavioral health care" also includes provider loan repayments and services such as health information technology services, recruitment services and practice transformation services that support the practitioners described in this paragraph in the delivery of behavioral health care services.

B. "Primary care" means care provided by:

(1) Primary care practitioners, including family physicians, internists, pediatricians and geriatricians, except when practicing inpatient care, or when practicing in an emergency department or stand-alone urgent care clinic;

(2) Obstetrician-gynecologists who assume responsibility for a patient's general primary care according to the gynecologic and non-gynecologic standards of the United States Preventive Services Task Force or its successor organization except when practicing inpatient care or in an emergency department or stand-alone urgent care clinic;

(3) Physicians or surgeons of any specialty when providing general or reproductive care to special populations or in special circumstances, including, but not limited to, in clinics for persons who are homeless or indigent, federally qualified health centers, home-based palliative care, school-based health centers and general clinics focusing on traditionally marginalized populations such as indigenous or other people of color, immigrants, asylum-seekers, migrant workers, persons who are marginalized on the basis of gender identity or sexual orientation, victims of human trafficking, incarcerated individuals and victims of declared natural or human-caused disasters; and

(4) Advanced practice clinicians providing the services described in subparagraphs (1) to (3).

"Primary care" also includes provider loan repayments and services such as health information technology services, recruitment services and practice transformation services that support the practitioners described in this paragraph in the delivery of primary care services.

2. Targets. Targets for investment and spending by a carrier in primary care and behavioral health care are established as follows.

A. For plan year 2023, each carrier shall determine its baseline percentage of combined spending on primary care and behavioral health care based on claims data reported for plan year 2019 and report that percentage to the superintendent. The superintendent shall establish the median percentage for all carriers for plan year 2023. In subsequent
plan years, the superintendent shall recalculate the median so that plan year 2024 is
based on claims data reported for calendar year 2023, plan year 2025 is based on claims
data reported for calendar year 2024 and plan year 2026 is based on claims data
reported for calendar year 2025.

B. Beginning in plan year 2023 and through plan year 2026, if a carrier spends less
than or equal to the median described in paragraph A on primary care and behavioral
health care, the carrier shall increase its percentage spent on primary care and
behavioral health care combined by at least 2% the following plan year over the plan
year referenced in paragraph A plus an increase equal to the rate of increase each year
in the Consumer Price Index for medical care services as reported by the United States
Department of Labor, Bureau of Labor Statistics.

C. Beginning in plan year 2023 and through plan year 2026, if the carrier spends at or
above the median described in paragraph A on primary care and behavioral health care,
the carrier shall increase its percentage spent on primary care and behavioral health
care combined by at least 1% the following plan year over the plan year referenced in
paragraph A plus an increase equal to the rate of increase each year in the Consumer
Price Index for medical care services as reported by the United States Department of

D. The superintendent shall recalculate the median for each plan year based on the
reference plan year described in paragraph A. The requirements of paragraphs B and
C must be adjusted each year based on the carrier's updated percentage spent on
primary care and behavioral health care combined.

E. A carrier may demonstrate that the targets required by the subsection are met by
averaging its increases in spending on primary care and behavioral health care
combined over more than one plan year as long as the total increases required pursuant
to this subsection through plan year 2026 are met.

F. For plan year 2027 and each fiscal year thereafter, the carrier shall maintain, at a
minimum, the total combined spending on primary care and behavioral health care
required pursuant to this section for plan year 2026.

A carrier shall meet the targets required in this subsection by reducing avoidable health
care spending without increasing spending on total health expenditures. A carrier may also
meet the targets required in this subsection by making supplemental payments to providers
focused on primary care and behavioral health care.

3. Rate approval. Beginning in plan year 2023, the superintendent may not approve
any rate filed by a carrier unless the carrier demonstrates that the targets required by this
section have been met. The superintendent may approve rates provisionally for one year,
if the superintendent is satisfied with an action plan submitted by a carrier to meet the
targets described in this section. As part of any rate filing, the superintendent may require
a carrier to provide such additional information as necessary to determine compliance with
this section.

SUMMARY

This bill requires health carriers to meet certain targets for investment and spending in
primary care and behavioral health care beginning in plan year 2023 and through plan year
2026. Overall spending may not increase to meet the targets. The bill establishes a
benchmark for combined spending in primary care and behavioral health care as a
percentage of overall health spending. The benchmark is indexed to the median amount
spent by carriers on primary care and behavioral health care for plan year 2019. The bill
requires carriers to increase relative spending in these areas by at least 2% per year if
spending is less than or equal to the median and at least 1% per year if spending is above
the median. Beginning in plan year 2027, carriers are required to maintain, at a minimum,
the total combined spending on primary care and behavioral health care achieved in plan
year 2026. The bill prohibits the Superintendent of Insurance from approving health
insurance rates filed by a carrier unless the carrier demonstrates that the targets have been
met. The bill also authorizes a carrier to meet the spending targets by supplemental
payments focused on primary care and behavioral health care.

The bill also requires the MaineCare program and the state employee health plan to
meet the same targets beginning in 2023.