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Legislative Document

No. 1288

H.P. 930

House of Representatives, March 14, 2019

**An Act To Establish a MaineCare Reimbursement Rate Review
Process and the MaineCare Independent Rate Commission**

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FARNSWORTH of Portland.
Cosponsored by Representatives: CRAVEN of Lewiston, HANDY of Lewiston, HICKMAN of
Winthrop, HYMANSON of York, MADIGAN of Waterville, McCREIGHT of Harpswell,
RECKITT of South Portland, WARREN of Hallowell.

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

2 **Sec. 1. 5 MRSA §12004-J, sub-§18** is enacted to read:

3 **18.**

4 <u>Health and</u>	<u>MaineCare</u>	<u>Not Authorized</u>	<u>22 MRSA §19-A</u>
5 <u>Human Services</u>	<u>Independent Rate</u>		
6	<u>Commission</u>		

7 **Sec. 2. 22 MRSA §19-A** is enacted to read:

8 **§19-A. Review of reimbursement rates for providers under MaineCare program**

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

11 A. "Alternative health care practices" means health care practices not considered to
12 be part of conventional medicine, including alternative medical systems, mind-body
13 interventions, biologically based treatments, manipulative and body-based methods
14 and energy therapies.

15 B. "Commission" means the MaineCare Independent Rate Commission.

16 C. "Committee" means the joint standing committee of the Legislature having
17 jurisdiction over appropriations and financial affairs.

18 D. "Facility-based physician" means an anesthesiologist, emergency room physician,
19 neonatologist, pathologist or radiologist practicing medicine primarily in a health care
20 facility.

21 E. "Initial contact agency" means an agency or private organization that a recipient
22 or potential recipient contacts initially to determine MaineCare program eligibility or
23 for a referral for specific MaineCare program services.

24 F. "Provider" means a provider of MaineCare program services.

25 G. "Recipient" means a recipient of MaineCare program services.

26 **2. Schedule of review of reimbursement rates for providers under the**
27 **MaineCare program.** On or before September 1st of each calendar year, the department
28 shall establish a 5-year schedule for annual reviews of reimbursement rates under the
29 MaineCare program so that each provider rate is reviewed at least every 5 years and
30 provide the schedule to the committee. If the department receives a petition or proposal
31 for a reimbursement rate to be reviewed or adjusted, the department shall provide a copy
32 of the petition or proposal to the commission. The department may exclude a
33 reimbursement rate from the schedule under this subsection if that rate is adjusted on a
34 periodic basis as a result of state law or federal law or regulation. The department shall
35 include the list of excluded rates with the schedule of reimbursement rates required by
36 this subsection. By December 1st of the year prior to a scheduled year, the committee or
37 the commission may direct the department to review any reimbursement rate that is not
38 scheduled during or that is excluded from the scheduled year. The department shall

1 review each reimbursement rate pursuant to subsection 3 scheduled for review and any
2 unscheduled or excluded reimbursement rate the commission or the committee directs the
3 department to review.

4 **3. Review process.** The department shall review a reimbursement rate under
5 subsection 2 pursuant to this subsection.

6 A. The department shall conduct an analysis of the access, service, quality and use of
7 each service subject to reimbursement rate review. The department shall compare the
8 rate reimbursed with available benchmarks, including Medicare rates and usual and
9 customary rates paid by private parties, and use qualitative tools to assess whether
10 reimbursements are sufficient to allow for provider retention and recipient access and
11 to support appropriate reimbursement of high-value services. On or before May 1st of
12 the scheduled review year the department shall provide a report on the analysis
13 required by this subsection to the committee, the commission and any stakeholder
14 and stakeholder group affected by the reimbursement rate review as identified by the
15 department.

16 B. Subsequent to the provision of a report under paragraph A, the department shall
17 work with the commission and any stakeholder and stakeholder group identified by
18 the department under paragraph A to review the report and develop strategies for
19 responding to the findings, including any nonfiscal approaches or rebalancing of
20 rates.

21 C. Subsequent to the review under paragraph B, the department shall work with the
22 Department of Administrative and Financial Services, Bureau of the Budget to
23 determine achievable goals and executive branch priorities within the state budget.

24 D. On or before November 1st of the scheduled rate year, the department shall
25 submit a written report to the committee and the commission containing the
26 department's recommendations on all of the reimbursement rates reviewed for that
27 year pursuant to this subsection and all of the data relied upon by the department in
28 making its recommendations. The committee shall consider the recommendations
29 submitted pursuant to this subsection in formulating the budget for the department.

30 **4. MaineCare Independent Rate Commission.** The MaineCare Independent Rate
31 Commission, established by Title 5, section 12004-J, subsection 18, is established as an
32 independent commission within the department that provides review and oversight over
33 the MaineCare program reimbursement rate process.

34 **5. Membership; meetings; bylaws; administrative support.** The commission
35 consists of 24 members, appointed as follows:

36 A. A recipient with a disability or a person who represents recipients with a
37 disability, appointed by the President of the Senate;

38 B. A representative of hospitals providing MaineCare program services
39 recommended by a statewide association of hospitals, appointed by the President of
40 the Senate;

41 C. A representative of providers of transportation to recipients, appointed by the
42 President of the Senate;

- 1 D. A representative of rural health care centers, appointed by the President of the
2 Senate;
- 3 E. A representative of home health care providers recommended by a statewide
4 organization of home health care providers, appointed by the President of the Senate;
- 5 F. A representative of providers of durable medical equipment recommended by a
6 statewide association of durable medical equipment providers, appointed by the
7 President of the Senate;
- 8 G. A representative of providers of behavioral health care services, appointed by the
9 President of the Senate;
- 10 H. A representative of primary care physicians who provide services to recipients
11 recommended by a statewide association of primary care physicians, appointed by the
12 President of the Senate;
- 13 I. A representative of dentists who provide services to recipients recommended by a
14 statewide association of dentists, appointed by the President of the Senate;
- 15 J. A representative of federally qualified health centers, appointed by the President of
16 the Senate;
- 17 K. A representative of private nonmedical institutions and community-based service
18 providers, appointed by the President of the Senate;
- 19 L. A representative of providers serving recipients with intellectual and
20 developmental disabilities, appointed by the President of the Senate;
- 21 M. A representative of child recipients with a disability, appointed by the Speaker of
22 the House of Representatives;
- 23 N. A representative of physicians who specialize in an area of health care and are not
24 employed by a hospital who see recipients, recommended by a statewide association
25 whose members include at least 1/3 of the doctors of medicine and osteopathy
26 licensed by the State, appointed by the Speaker of the House of Representatives;
- 27 O. A representative of providers of alternative health care practices recommended by
28 a statewide association of alternative health care practices, appointed by the Speaker
29 of the House of Representatives;
- 30 P. A representative of initial contact agencies, appointed by the Speaker of the House
31 of Representatives;
- 32 Q. A representative of ambulatory surgery centers, appointed by the Speaker of the
33 House of Representatives;
- 34 R. A representative of hospice providers recommended by a statewide association of
35 hospice and palliative care providers, appointed by the Speaker of the House of
36 Representatives;
- 37 S. A representative of substance use disorder treatment providers recommended by a
38 statewide association of substance use disorder treatment providers, appointed by the
39 Speaker of the House of Representatives;

1 T. A representative of facility-based physicians who see recipients, appointed by the
2 Speaker of the House of Representatives;

3 U. A representative of pharmacists providing services to recipients, appointed by the
4 Speaker of the House of Representatives;

5 V. A representative of managed care plans, appointed by the Speaker of the House of
6 Representatives;

7 W. A representative of advanced practice registered nurses recommended by a
8 statewide association of nurses, appointed by the Speaker of the House of
9 Representatives; and

10 X. A representative of physical therapists or occupational therapists recommended
11 by a statewide association of physical or occupational therapists, appointed by the
12 Speaker of the House of Representatives.

13 A member serves a 4-year term and may be reappointed. The appointing authorities shall
14 make a concerted effort to include members of diverse political, racial, cultural, income
15 and ability groups from urban and rural areas. Members shall elect a chair and a vice-
16 chair from among the membership. A member serves without compensation or
17 reimbursement for expenses. The commission shall meet at least once every quarter, and
18 the chair may call additional meetings determined necessary for the commission to
19 complete its duties. The commission shall enact bylaws and procedures to govern its
20 operations. The department shall provide administrative support to the commission.

21 **6. Commission duties.** The commission shall:

22 A. Review the schedule of reimbursement rates under subsection 2 and recommend
23 any changes to the schedule;

24 B. Review a report prepared by the department under subsection 3, paragraph A and
25 provide to the department comments and feedback on the report;

26 C. With the department, conduct a public meeting to allow providers, recipients,
27 stakeholders, stakeholder groups and other interested parties an opportunity to
28 comment on a report prepared by the department under subsection 3, paragraph A;

29 D. Review a proposal or petition for a reimbursement rate to be reviewed or adjusted
30 that is received by the commission;

31 E. Determine whether a reimbursement rate not scheduled for or excluded from
32 review should be reviewed during that calendar year;

33 F. Recommend to the department and the committee any changes to the process of
34 reviewing reimbursement rates including measures to increase access to the process
35 such as providing for electronic comments by providers and the public; and

36 G. Provide other assistance to the department as requested by the department and the
37 committee.

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SUMMARY

2 This bill establishes a process by which the Department of Health and Human
3 Services maintains a schedule of MaineCare program reimbursement rate reviews in
4 which each rate is reviewed at least every 5 years. Under this process, the department
5 reviews a rate for access, service, quality and use of service and compares the rate
6 reimbursed with available benchmarks, including Medicare rates and usual and
7 customary rates paid by private parties, and uses qualitative tools to assess whether
8 reimbursements are sufficient to allow for provider retention and recipient access and to
9 support appropriate reimbursement of high-value services. The department is required to
10 provide a report of its review to the joint standing committee of the Legislature having
11 jurisdiction over appropriations and financial affairs, the MaineCare Independent Rate
12 Commission, a 24-member group of interested parties providing oversight of the rate
13 review process, and stakeholders. After holding public meetings and consulting
14 stakeholders and stakeholder groups and consultation with the Department of
15 Administrative and Financial Services, Bureau of the Budget, the department makes
16 recommendations on the MaineCare reimbursement rates to the joint standing committee
17 of the Legislature having jurisdiction over appropriations and financial affairs to assist in
18 developing the department's budget.