



126th MAINE LEGISLATURE

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Legislative Document

No. 1636

S.P. 627

In Senate, December 23, 2013

**An Act To Provide a More Efficient and Reliable System of
Nonemergency Transportation for MaineCare Members**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 23, 2013. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LACHOWICZ of Kennebec.
Cosponsored by Representative THERIAULT of Madawaska and
Senators: CRAVEN of Androscoggin, JOHNSON of Lincoln, Representatives: BECK of
Waterville, FARNSWORTH of Portland, GATTINE of Westbrook, GILBERT of Jay,
GRAHAM of North Yarmouth, GRANT of Gardiner.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the current nonemergency transportation system provided for MaineCare
4 members, referred to as the brokerage system, which became operational on August 1,
5 2013, is deficient and ineffective and provides a very poor level of service to MaineCare
6 members; and

7 **Whereas,** thousands of MaineCare members have been unable to access medically
8 necessary health care services and other MaineCare services since the brokerage system
9 went into operation, thereby endangering their health and lives; and

10 **Whereas,** the Legislature finds that the current nonemergency transportation system
11 is performing at such a low level that a new system is needed to serve the people of
12 Maine; and

13 **Whereas,** this legislation, which provides for the implementation of a new
14 nonemergency transportation system for MaineCare members, must take effect as soon as
15 possible; and

16 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
17 the meaning of the Constitution of Maine and require the following legislation as
18 immediately necessary for the preservation of the public peace, health and safety; now,
19 therefore,

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

21 **Sec. 1. Nonemergency transportation for MaineCare members.** Within 30
22 days of the effective date of this Act, the Department of Health and Human Services,
23 referred to in this Act as "the department," shall in accordance with this section contract
24 with regional public transportation agencies, as described in the Maine Revised Statutes,
25 Title 23, section 4209, subsection 1, and implement a new system of providing
26 nonemergency transportation services for MaineCare members, referred to in this Act as
27 "the MaineCare regional transportation system," to replace the current brokerage system.

28 **1. Procedure and structure.** The MaineCare regional transportation system must
29 meet the following requirements.

30 A. The MaineCare regional transportation system must use sole source contracts in
31 each of the transportation regions established by the Department of Transportation
32 pursuant to Title 23, section 4209, subsection 1. In each transportation region the
33 department shall enter into a contract to manage and provide transportation to
34 MaineCare members with at least one regional public transportation agency that had
35 an agreement with the department on July 31, 2013 to provide MaineCare
36 transportation services.

37 B. The contracts entered into under paragraph A must include the following terms.

- 1 (1) The transportation provided to a MaineCare member must be the most cost-
2 effective and appropriate means of transportation to meet the needs of the
3 MaineCare member.
- 4 (2) The transportation must be provided at no cost to the MaineCare member.
- 5 (3) The regional public transportation agency must establish and use a network of
6 transportation providers, including but not limited to family and friends of
7 MaineCare members, volunteer drivers, transit and paratransit vans, taxi
8 companies and other community-based transportation providers.
- 9 (4) The regional public transportation agency must provide staff and resources
10 sufficient to handle transportation request telephone calls during regular business
11 hours for at least 8 hours every day.
- 12 (5) The regional public transportation agency must provide a high level of
13 customer service, must be able to respond to calls from MaineCare members,
14 must provide an adequate level of prompt service and must maintain accurate
15 records in compliance with state and federal standards.
- 16 (6) The regional public transportation agency must meet the performance
17 standards adopted by the department under subsection 2.
- 18 (7) The department must pay the regional public transportation agency a monthly
19 contract fee based on the number of MaineCare members served, subject to
20 adjustment for changed circumstances, including but not limited to fuel price
21 increases, transportation use increases, material change in circumstances and
22 other cost increases that are beyond the control of the regional public
23 transportation agency.
- 24 (8) The regional public transportation agency must report data to the department
25 in the format and on a schedule established by the department.
- 26 (9) The term of the contract must be one year, with the option of renewal for up
27 to 3 years if the regional public transportation agency meets performance
28 standards adopted under subsection 2 and complies in all other ways with the
29 requirements of the contract.

30 **2. Performance standards.** The department shall adopt performance standards that
31 ensure that regional public transportation agencies provide efficient and effective
32 transportation services to MaineCare members so that the members may obtain the
33 MaineCare services to which they are entitled, that are appropriate for the different
34 geographic regions of the State and the differing needs of MaineCare members and that
35 meet the requirements of this section.

36 **3. Termination.** If the department determines that a regional public transportation
37 agency has not met the terms of a contract entered into under this section, the department
38 shall terminate the contract upon the provision of 60 days' notice to the regional public
39 transportation agency.

40 **Sec. 2. Transition period.** The department shall provide a transition period
41 during the first 90 days of a contract for MaineCare transportation services entered into

1 pursuant to this Act. During the transition period, a regional public transportation agency
2 must fully perform the duties under the contract, including data collection, except that the
3 agency's reporting of data to the department must be suspended until the end of the first
4 90 days of operation under the contract.

5 **Sec. 3. Federal Medicaid waiver and approval.** The department shall apply to
6 the federal Department of Health and Human Services, Centers for Medicare and
7 Medicaid Services by April 1, 2014 for all necessary Medicaid waiver and state plan
8 amendment approvals to allow the department to terminate the current brokerage system
9 and to design and implement the MaineCare regional transportation system in a manner
10 that is consistent with the provisions of this Act.

11 **Emergency clause.** In view of the emergency cited in the preamble, this
12 legislation takes effect when approved.

13 SUMMARY

14 This bill requires the Department of Health and Human Services to implement a new
15 system to contract for and provide nonemergency transportation for MaineCare members
16 within 30 days after the effective date of the bill. The bill requires the new system to use
17 sole source contracts with regional public transportation agencies that had agreements on
18 July 31, 2013 to provide MaineCare transportation services. The bill provides specific
19 requirements for the contracts, requires the department to adopt performance standards
20 and allows termination of contracts if the department determines that a regional public
21 transportation agency has not met its contractual obligations. The bill requires one-year
22 contracts that are renewable for up to 3 years. The bill provides a transition period during
23 which regional public transportation agencies are not required to submit data to the
24 department. The bill requires the department to apply to the federal Department of
25 Health and Human Services, Centers for Medicare and Medicaid Services by April 1,
26 2014 for all necessary Medicaid waiver and state plan amendment approvals.