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H.P. 1021

House of Representatives, December 23, 2015

An Act To Clarify Medicaid Managed Care Ombudsman Services

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

Received by the Clerk of the House on December 21, 2015. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative VACHON of Scarborough.
Cosponsored by Senator VOLK of Cumberland and
Representatives: BATTLE of South Portland, COREY of Windham, FOLEY of Wells,
GERRISH of Lebanon, GINZLER of Bridgton, HEAD of Bethel, HYMANSON of York,
MAKER of Calais, MALABY of Hancock, McCLELLAN of Raymond, McELWEE of
Caribou, ORDWAY of Standish, PICCHIOTTI of Fairfield, PICKETT of Dixfield, TUELL of
East Machias, Senators: CYRWAY of Kennebec, DAVIS of Piscataquis, VALENTINO of
York.

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

2 **Sec. 1. 22 MRSA §3174-X**, as enacted by PL 1999, c. 681, §1, is repealed and the
3 following enacted in its place:

4 **§3174-X. Contracted ombudsman services**

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

7 A. "Children's health insurance program" means the state children's health insurance
8 program under Title XXI of the Social Security Act.

9 B. "Eligible member" means a person who is eligible to participate as a member or
10 beneficiary of the MaineCare program or the children's health insurance program.

11 C. "Medicaid managed care" means all Medicaid and children's health insurance
12 program programs and services that are determined by the United States Department
13 of Health and Human Services to be managed care programs. Such managed care
14 programs include but are not limited to primary care case management and health
15 homes or other patient-centered medical homes that include MaineCare or children's
16 health insurance program members, including behavioral health homes.

17 D. "Ombudsman" means the director of the program and persons employed or
18 volunteering to perform the work of the program.

19 E. "Outreach and education" includes, but is not limited to, work site and
20 community-based training and workshops; outreach at events such as town fairs,
21 expositions and health fairs; development of mailings about coverage options, open
22 enrollment periods and other important updates; information hotline response,
23 including providing information and referrals to members and eligible members who
24 call; and screening for eligibility for coverage programs, including programs other
25 than Medicaid programs.

26 F. "Program" means the ombudsman program established under this section.

27 **2. Program established.** The ombudsman program is established as an independent
28 program to provide ombudsman services to the Medicaid managed care population
29 regarding Medicaid services provided by the department and the department's office for
30 family independence and office of MaineCare services. The program shall consider and
31 promote the best interests of the Medicaid and children's health insurance program
32 populations, answer inquiries and investigate, advise and work toward resolution of
33 complaints of infringement of the rights of a member or eligible member. The program
34 shall include outreach and education to eligible members and those who serve eligible
35 members, including health care providers, social service providers and health insurance
36 navigators and other enrollment professionals. The program shall function through the
37 staff of the program, subcontractors and any volunteers recruited and trained to assist in
38 the duties of the program.

39 **3. Contracted services; political activity prohibited.** The program shall operate by
40 contract with a nonprofit organization that is best able to provide services on a statewide

1 basis. The ombudsman may not be actively involved in state-level political party
2 activities or publicly endorse, solicit funds for or make contributions to political parties
3 on the state level or candidates for statewide elective office. The ombudsman may not be
4 a candidate for or hold any statewide elective or appointive public office.

5 **4. Program services.** The first priority in the work of the program and the contract
6 for ombudsman services under subsection 3 must be case-specific advocacy and
7 enrollment services. In performing services under this section, the program, as it
8 determines to be appropriate, may create and maintain records and case-specific reports.
9 The program may:

10 A. Provide information to the public about the services of the program through a
11 comprehensive outreach program. The program shall provide information through a
12 toll-free telephone number or numbers;

13 B. Answer inquiries, investigate and work toward resolution of complaints regarding
14 the performance and services of the department and participate in conferences,
15 meetings and studies that may improve the performance of the department;

16 C. Provide services to members and eligible members to assist them in protecting
17 their rights;

18 D. Inform members and eligible members of the means of obtaining services from
19 the department;

20 E. Provide information and referral services;

21 F. Analyze and provide opinions and recommendations to agencies, the Governor
22 and the Legislature on state programs, rules, policies and laws;

23 G. Determine what types of complaints and inquiries will be accepted for action by
24 the program and adopt policies and procedures regarding communication with
25 members and eligible members making inquiries or complaints and the department;

26 H. Apply for and use grants, gifts and funds for the purpose of performing the duties
27 of the program; and

28 I. Collect and analyze records and data relevant to the duties and activities of the
29 program and make reports as required by law or as the department considers
30 appropriate.

31 **5. Information for members and eligible members; eligibility.** The program, in
32 consultation with appropriate interested parties, shall provide information about eligibility
33 requirements and procedures for enrolling in MaineCare to members and eligible
34 members, including their dependents. The providing of the information under this
35 subsection does not constitute representation of members and eligible members. Members
36 and eligible members may seek and receive information regardless of whether they are
37 represented by legal counsel. The information must be provided free of charge to
38 members and eligible members.

39 This subsection does not create new rights or obligations concerning the provision of
40 legal advice or representation of members and eligible members.

