

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 720 - L.D. 1795

An Act to Create Greater Transparency for Facility Fees Charged by Health Care Providers and to Establish the Task Force to Evaluate the Impact of Facility Fees on Patients

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

Sec. 1. 22 MRSA §8712, sub-§2-A is enacted to read:

2-A. Facility fees charged by health care providers. By January 1, 2024, and annually thereafter, the organization shall produce and post on its publicly accessible website a report on the payments for facility fees made by payors to the extent that payment information is already reported to the organization. The organization shall submit the report required by this subsection to the Office of Affordable Health Care established in Title 5, section 3122 and the joint standing committee of the Legislature having jurisdiction over health data reporting and health insurance matters. The joint standing committee may report out legislation based on the report to a first regular or second regular session of the Legislature, depending on the year in which the report is submitted.

For the purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Facility fee" means any fee charged or billed by a health care provider for outpatient services provided in a hospital-based facility or freestanding emergency facility that is intended to compensate the health care provider for the operational expenses of the health care provider, separate and distinct from a professional fee, and charged or billed regardless of how a health care service is provided.

B. "Health care provider" means a person, whether for profit or nonprofit, that furnishes bills or is paid for health care service delivery in the normal course of business. "Health care provider" includes, but is not limited to, a health system, hospital, hospital-based facility, freestanding emergency facility or urgent care clinic.

Sec. 2. Task force established. The Task Force to Evaluate the Impact of Facility Fees on Patients, referred to in this section as "the task force," is established as follows.

1. Appointments; composition. Notwithstanding Joint Rule 353, the task force consists of 8 voting members and 2 ex officio nonvoting members as follows:

- A. Four members must be appointed by the President of the Senate as follows:
- (1) One member of the Senate;
 - (2) One member representing a statewide organization supporting the interests of health care consumers;
 - (3) One member representing the interests of health insurance carriers; and
 - (4) One member with expertise, knowledge and background in health care policy;
- B. Four members must be appointed by the Speaker of the House of Representatives as follows:
- (1) One member of the House of Representatives;
 - (2) One member representing a statewide organization of retired persons;
 - (3) One member representing a statewide organization of hospitals; and
 - (4) One member representing a hospital in the State; and
- C. Two ex officio nonvoting members as follows:
- (1) The Director of the Office of MaineCare Services within the Department of Health and Human Services or the director's designee; and
 - (2) The Director of the Office of Affordable Health Care or the director's designee.

2. Chairs. The member of the Senate is the Senate chair and the member of the House of Representatives is the House chair of the task force. Notwithstanding Joint Rule 353, the chairs may appoint, as nonvoting members, individuals with expertise in health care policy, health care financing or health care delivery. Any additional members appointed pursuant to this subsection are not entitled to compensation or reimbursement under subsection 5.

3. Appointments; convening. All appointments must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the task force. If 30 days or more after the effective date of this Act a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the task force to meet and conduct its business.

4. Duties. The task force shall:

- A. Review the industry practices for charging facility fees, uses of the funds received as facility fees and impacts on patients of paying facility fees charged by health care providers;
- B. Review federal transparency requirements for hospitals and health insurance carriers regarding cost of treatment, identify any gaps or redundancies between state laws and federal laws and identify any problems with enforcement of those laws;
- C. Consider efforts in other states and by national organizations related to regulation of, or minimization of, facility fees and the potential effects such efforts might have on health care costs in this State; and
- D. Make recommendations for changes in laws or rules regarding facility fees and medical cost transparency based on the information examined under this subsection.

5. Compensation. The legislative members of the task force are entitled to receive the legislative per diem, as set out in the Maine Revised Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses related to their attendance at authorized meetings of the task force. Public members not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the task force.

6. Quorum. A quorum is a majority of the voting members of the task force, including those members invited to participate who have accepted the invitation to participate.

7. Staffing. The Legislative Council shall provide staff support for the task force. To the extent needed when the Legislature is in session, the Legislative Council may contract for such staff support if sufficient funding is available.

8. Consultants; additional staff assistance. The task force may solicit the services of one or more outside consultants to assist the task force to the extent resources are available. Upon request, the Office of Affordable Health Care, the Department of Health and Human Services, the Department of Professional and Financial Regulation, Bureau of Insurance and the Maine Health Data Organization shall provide additional staffing assistance to the task force to ensure the task force has the information necessary to fulfill their duties under this section.

9. Reports. The task force shall submit a report no later than December 6, 2023 that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Health Coverage, Insurance and Financial Services and the committee may report out a bill based on the report to the Second Regular Session of the 131st Legislature.

10. Additional funding; sources. The task force may apply for and receive funds, grants or contracts from public and private sources to support its activities under this section.

11. Definition. For purposes of this section, "facility fees" and "healthcare provider" have the same meanings as in the Maine Revised Statutes, Title 22, section 8712, subsection 2-A.