

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Improve MaineCare and Promote Employment**

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

**Sec. 1. 19-A MRSA §2001, sub-§5-A** is enacted to read:

**5-A. Health plan.** "Health plan" means a plan of a nonprofit hospital or medical service organization, an insurer, a health maintenance organization or a health insurance carrier licensed pursuant to Title 24 or 24-A; a health program administered by the department or the State in the capacity of provider of health coverage; or a plan of an employer, labor union or other group of persons organized in the State that provides health coverage to covered individuals who are employed or reside in the State. "Health plan" does not include a health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, Medicare supplement, disability income, long-term care or other limited benefit health insurance policies and contracts.

**Sec. 2. 19-A MRSA §2001, sub-§5-B** is enacted to read:

**5-B. Medical care costs.** "Medical care costs" means the costs of medical and health care for a child, including but not limited to the cost of enrollment or participation in or purchase of a health plan and any cash payment required of a parent for premium, copayment, deductible, coinsurance and routine and other medical expenses not covered by the health plan. Medical care costs reflect the cost of medical care ordinarily spent for the care of a child by parents living in the same household.

**Sec. 3. 19-A MRSA §2001, sub-§5-C** is enacted to read:

**5-C. Medical support.** "Medical support" means support for a child's medical care costs.

**Sec. 4. 19-A MRSA §2012** is enacted to read:

### **§ 2012. Medical support**

The department, after consultation with the Supreme Judicial Court and interested parties, shall adopt rules in accordance with Title 5, chapter 375 establishing medical support. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 5. 19-A MRSA §2202, sub-§13**, as enacted by PL 2003, c. 20, Pt. K, §1 and amended by c. 689, Pt. B, §6, is further amended to read:

**13. Premium from noncustodial parents.** The Department of Health and Human Services, Division of Support Enforcement and Recovery shall collect a premium from noncustodial parents whose children are MaineCare members and who have legally been determined to be responsible for medical care contributions for these children.

This subsection is repealed upon adoption of the final federal rules to implement the premium assistance provisions of the federal Deficit Reduction Act of 2005.

**Sec. 6. 19-A MRSA §2202, sub-§13-A** is enacted to read:

**13-A. Premium from noncustodial parents.** The Department of Health and Human Services, Division of Support Enforcement and Recovery shall collect a premium from noncustodial parents whose children are MaineCare members, including those who receive assistance under Title 22, section 3174-T, and from parents who have legally been determined to be responsible for medical care contributions for these children but do not have access to other health insurance that is at a reasonable cost and that is accessible and comprehensive as determined by rules adopted by the department. The department shall adopt rules to establish a sliding scale for premiums required under this section in accordance with the sliding scale that is applied by the department to custodial parents under 42 United States Code, Section 1396o-1 (2007) or 42 Code of Federal Regulations, Section 457.560 (2006). Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. This subsection takes effect upon adoption of the final federal rules to implement the premium assistance provisions of the federal Deficit Reduction Act of 2005.

**Sec. 7. 22 MRSA §14, sub-§2-A,** as amended by PL 2003, c. 20, Pt. K, §2, is further amended to read:

**2-A. Assignment of rights of recovery.** The receipt of benefits under the MaineCare program constitutes an assignment by the recipient or any legally liable relative to the department of the right to recover from 3rd parties for the medical cost of injury, disease, disability or similar occurrence for which the recipient receives medical benefits. The department's assigned right to recover is limited to the amount of medical benefits received by the recipient and does not operate as a waiver by the recipient of any other right of recovery against a 3rd party that a recipient may have.

The recipient is also deemed to have appointed the commissioner as the recipient's attorney in fact to perform the specific act of submitting claims to insurance carriers or endorsing over to the department any and all drafts, checks, money orders or any other negotiable instruments connected with the payment of 3rd-party medical claims, making inquiries, requesting information, verifying other previous, current or potential coverage for the recipient or the recipient's spouse or dependents or endorsing over to the department any and all drafts, checks, money orders or any other negotiable instruments connected with the payment of 3rd-party medical claims to 3rd parties, liable parties or potentially liable 3rd parties. The appointment includes complete access to medical expense records and data, insurance policies and coverage and all other information relating to MaineCare's duty to cost-avoid and seek other coverage or payment response.

**Sec. 8. 22 MRSA §14, sub-§2-H, ¶A,** as amended by PL 2003, c. 20, Pt. K, §2, is further amended to read:

A. Whenever a participating health care provider or the department submits claims to a health insurer, as defined in Title 24-A, section 4, or to a health maintenance organization included in 42 United States Code, Section 1396a(a)(25)(I), including self-insured plans, group health plans as defined in the federal Employee Retirement Income Security Act of 1974, Section 607(1), service benefit plans, managed care organizations, pharmacy benefit managers or other parties that are, by statute, contract or agreement, legally responsible for payment of a claim for a health care item or service, on behalf of a current or former recipient under the MaineCare program for whom an assignment of rights has been received, or whose rights have been assigned by the operation of law,

the health insurer or health maintenance organization doing business in the State must respond to the department within 60 days of receipt of a claim by forwarding payment or issuing a notice of denial directly to the submitter of the claim and:

(1) Provide information, with respect to individuals who are eligible for or are provided medical assistance under MaineCare, upon the request of the State, to determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage that is or was provided by the health insurer, including the name, address and identifying number of the plan, in a manner prescribed by the United States Secretary of Health and Human Services;

(2) Accept the State's right of recovery and the assignment to the State of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the state plan;

(3) Respond to any inquiry by the State regarding a claim for payment for any health care item or service that is submitted not later than 3 years after the date of the provision of such health care item or service; and

(4) Agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim, the type or format of the claim form or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:

(a) The claim is submitted by the State within the 3-year period beginning on the date on which the item or service was furnished; and

(b) Any action by the State to enforce its rights with respect to such claim is commenced within 6 years of the State's submission of such claim.

**Sec. 9. 22 MRSA §14, sub-§3**, as amended by PL 2003, c. 20, Pt. K, §2, is further amended to read:

**3. Definitions.** For purposes of this section, "3rd party" or "liable party" or "potentially liable party" means any entity, including, but not limited to, an insurance carrier any health insurer as included in 42 United States Code, Section 1396a(a)(25)(I) and any other parties that are, by statute, contract or agreement, legally responsible for payment of a claim for a health care item or service, that may be liable under a contract to provide health, automobile, workers' compensation or other insurance coverage that is or may be liable to pay all or part of the medical cost of injury, disease, disability or similar occurrence of an applicant or recipient of benefits under the MaineCare program. For purposes of this section and sections 18 and 19, an "insurance carrier" includes, but is not limited to, health insurers, group health plans as defined in 29 United States Code, Section 1167(1), service benefit plans and health maintenance organizations, as well as any other entity included in 42 United States Code, Section 1396a(a)(25)(I).

"Liable party," "potentially liable party" or "3rd party" also includes the trustee or trustees of any mortuary trust established by the recipient or on the recipient's behalf in which there is money remaining after the actual costs of the funeral and burial have been paid in accordance with the terms of the trust and in which there is no provision that the excess be paid to the decedent's estate. "Liable party," "potentially liable party" or "3rd party" may also include the recipient of benefits under the MaineCare program.

**Sec. 10. 22 MRSA §18, sub-§1**, as enacted by PL 1997, c. 795, §5, is amended to read:

**1. Program.** The Private Health Insurance Premium Program is operated by the ~~Bureau~~Office of ~~Medical~~MaineCare Services within the department and implements the provisions of 42 United States Code, Section 1396a(a)(25)(G) and 1396e. The office shall seek to maximize enrollment in the program by establishing procedures to identify families or individuals with access to other public or private insurance coverage and educating members and employers about the purpose and benefits of the program.

**Sec. 11. 24-A MRSA §2847-M** is enacted to read:

**§ 2847-M. Enrollment for individuals or families establishing eligibility for MaineCare**

When an individual or family is eligible for MaineCare and is also eligible for health insurance coverage provided by an employer, the insurer must permit the individual or family to enroll in the health insurance coverage without regard to any enrollment season restrictions.

*§2847-M. Coverage for hearing aids*

*(As enacted by PL 2007, c. 452, §3 is REALLOCATED TO TITLE 24-A, SECTION 2847-O)*

**Sec. 12. 24-A MRSA §4253** is enacted to read:

**§ 4253. Enrollment for individuals or families establishing eligibility for MaineCare**

When an individual or family is eligible for MaineCare and is also eligible for health maintenance organization coverage provided by an employer through a health maintenance organization, the health maintenance organization must permit the individual or family to enroll in the health maintenance organization coverage without regard to any enrollment season restrictions.

*§4253. Coverage for hearing aids*

*(As enacted by PL 2007, c. 452, §4 is REALLOCATED TO TITLE 24-A, SECTION 4255)*

**Sec. 13. Notification.** The Commissioner of Health and Human Services shall notify the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Revisor of Statutes when the final federal rules to implement the premium assistance provisions of the federal Deficit Reduction Act of 2005 have been adopted.

**Sec. 14. Retroactivity.** Those sections of this Act that amend or repeal portions of the Maine Revised Statutes, Title 22, section 14 apply retroactively to the extent authorized by state or federal law.

Effective September 20, 2007