



126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1578

H.P. 1149

House of Representatives, December 30, 2013

An Act To Increase Health Security by Expanding Federally Funded Health Care for Maine People

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

Received by the Clerk of the House on December 23, 2013. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Speaker EVES of North Berwick.
Cosponsored by Senator JACKSON of Aroostook and
Representatives: EVANGELOS of Friendship, McELWEE of Caribou, SANBORN of
Gorham, WILSON of Augusta, WINCHENBACH of Waldoboro, Senators: President
ALFOND of Cumberland, CAIN of Penobscot, SAVIELLO of Franklin.

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

2 **PART A**

3 **Sec. A-1. 22 MRSA §3174-G, sub-§1, ¶F**, as amended by PL 2011, c. 380, Pt.
4 KK, §2, is further amended to read:

5 F. A person 20 to 64 years of age who is not otherwise covered under paragraphs A
6 to E when the person's family income is below or equal to 125% of the nonfarm
7 income official poverty line, provided that the commissioner shall adjust the
8 maximum eligibility level in accordance with the requirements of the paragraph.

9 (2) If the commissioner reasonably anticipates the cost of the program to exceed
10 the budget of the population described in this paragraph, the commissioner shall
11 lower the maximum eligibility level to the extent necessary to provide coverage
12 to as many persons as possible within the program budget.

13 (3) The commissioner shall give at least 30 days' notice of the proposed change
14 in maximum eligibility level to the joint standing committee of the Legislature
15 having jurisdiction over appropriations and financial affairs and the joint standing
16 committee of the Legislature having jurisdiction over health and human services
17 matters; ~~and~~

18 **Sec. A-2. 22 MRSA §3174-G, sub-§1, ¶G**, as enacted by PL 2011, c. 380, Pt.
19 KK, §3, is amended to read:

20 G. A person who is a noncitizen legally admitted to the United States to the extent
21 that coverage is allowable by federal law if the person is:

- 22 (1) A woman during her pregnancy and up to 60 days following delivery; or
23 (2) A child under 21 years of age;

24 **Sec. A-3. 22 MRSA §3174-G, sub-§1, ¶¶H and I** are enacted to read:

25 H. Effective July 1, 2014, a person 21 to 64 years of age who is not otherwise
26 eligible for medical assistance under this section, who qualifies for medical assistance
27 pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and who has
28 income at or below 133% of the nonfarm income official poverty line plus 5% for the
29 applicable family size as required by federal law. A person eligible for medical
30 assistance under this paragraph must receive the same coverage as is provided to a
31 person eligible under paragraph E; and

32 I. Beginning October 1, 2019, a person 19 or 20 years of age who is not otherwise
33 eligible for medical assistance under this section, who qualifies for medical assistance
34 pursuant to 42 United States Code, Section 1396a(a)(10)(A)(i)(VIII) and who has
35 income at or below 133% of the nonfarm income official poverty line plus 5% for the
36 applicable family size as required by federal law. A person eligible for medical
37 assistance under this paragraph must receive the same coverage as is provided to a
38 person eligible under paragraph E.

1 the childless adult population on December 1, 2009. If the secretary requires the
2 submission of additional information to demonstrate that members of the childless adult
3 population otherwise qualify as "newly eligible" individuals as described in Section
4 1905(y)(2) of the United States Social Security Act, in order for the State to secure an
5 enhanced Federal Medical Assistance Percentage as set forth in Section 1905(y)(1) of the
6 United States Social Security Act, the Department of Health and Human Services shall
7 provide all required information to the secretary within 30 days of the secretary's sending
8 notification that additional information is required.

9 **Sec. B-2. Report.** The Commissioner of Health and Human Services shall report
10 no later than November 1, 2014 to the Joint Standing Committee on Appropriations and
11 Financial Affairs and the Joint Standing Committee on Health and Human Services on
12 efforts to secure the maximum Federal Medical Assistance Percentage under section 1,
13 including any correspondence with the United States Department of Health and Human
14 Services regarding these efforts.

15 PART C

16 **Sec. C-1. Research organization evaluation.** The Office of Fiscal and
17 Program Review shall contract with a nonpartisan research organization to evaluate the
18 impact of the MaineCare expansion authorized in Part A on programs and services that do
19 not currently receive Federal Medical Assistance Percentage matching funds or do not
20 qualify for enhanced Federal Medical Assistance Percentage matching funds under the
21 federal Patient Protection and Affordable Care Act, 42 United States Code, Section
22 18001, et seq., with the goal of identifying and maximizing General Fund savings. The
23 Commissioner of Health and Human Services, the Commissioner of Corrections and the
24 Executive Director of the State Board of Corrections shall provide to the research
25 organization information and assistance requested for preparation of the evaluation. In
26 evaluating the programs and services under this Part, the research organization shall at a
27 minimum evaluate the impact on the following programs and services: the state-funded
28 Mental Health Services - Community, Office of Substance Abuse and General Assistance
29 - Reimbursement to Cities and Towns programs; the elderly low-cost drug program under
30 the Maine Revised Statutes, Title 22, section 254-D; services provided for individuals 21
31 to 64 years of age who are currently eligible for MaineCare under medically needy,
32 spend-down criteria; services provided under the Maine HIV/AIDS Section 1115
33 Demonstration Waiver; services provided for parents participating in family reunification
34 activities; services provided for disabled individuals 21 to 64 years of age with incomes
35 below 139% of the federal poverty level; services provided to individuals awaiting a
36 MaineCare disability determination for whom the applications are subsequently granted;
37 services provided to individuals who would have been considered eligible on the basis of
38 a disability but for whom the full determination process was not completed; medical
39 services provided to persons in the care and custody of the Department of Corrections or
40 a county correctional facility; and the amount of payment for services that hospitals
41 received during fiscal years 2014-15 and 2015-16 as a result of the expansion of
42 MaineCare eligibility pursuant to Part A. In addition, the research organization shall
43 evaluate any savings and the impact on health outcomes achieved through initiatives
44 implemented pursuant to the State Innovation Models Initiative grant.

1 **Sec. C-2. Report.** The research organization that conducts the evaluation under
2 section 1 shall report no later than October 1st in 2014 and 2015 and February 15, 2016 to
3 the joint standing committee of the Legislature having jurisdiction over appropriations
4 and financial affairs, the joint standing committee of the Legislature having jurisdiction
5 over health and human services matters and the joint standing committee of the
6 Legislature having jurisdiction over criminal justice and public safety matters on the
7 amount of General Fund savings resulting from the MaineCare expansion authorized in
8 Part A and identified in section 1. The reports must include the amount of savings
9 expected and realized during fiscal years 2014-15 and 2015-16 by service area or
10 program, the amount deposited in the MaineCare Stabilization Fund pursuant to section 3
11 and the amount of savings projected to be achieved through state fiscal year 2020-21 by
12 service area or program.

13 **Sec. C-3. Calculation and transfer.** Notwithstanding any other provision of law,
14 the State Budget Officer shall calculate the amount of savings identified in this Part that
15 applies against each General Fund account statewide as a result of the expansion of
16 MaineCare eligibility authorized in Part A and shall transfer the amounts up to the
17 amounts specified in section 6 by financial order upon the approval of the Governor.
18 These transfers are considered adjustments to appropriations in fiscal year 2014-15. The
19 State Controller shall transfer any amounts identified under this Part greater than the
20 amounts specified in section 6 to the MaineCare Stabilization Fund established under the
21 Maine Revised Statutes, Title 22, section 3174-KK. The State Budget Officer shall
22 provide a report of the transferred amounts to the joint standing committee of the
23 Legislature having jurisdiction over appropriations and financial affairs no later than June
24 30, 2015 for fiscal year 2014-15 and no later than June 30, 2016 for fiscal year 2015-16.

25 **Sec. C-4. Review and responsibility.** Following receipt of the reports from the
26 research organization as required under section 2, the joint standing committee of the
27 Legislature having jurisdiction over health and human services matters shall review the
28 information provided in the reports and shall determine if the net cost to the General Fund
29 of providing coverage under the MaineCare program to individuals pursuant to Part A,
30 section 3 exceeds the savings to the General Fund, including any amount deposited in the
31 MaineCare Stabilization Fund pursuant to section 3, due to the expansion of coverage for
32 those individuals. Following its review of the report received on February 15, 2016, the
33 joint standing committee may report out a bill to the 127th Legislature regarding its
34 determinations and conclusions.

35 **Sec. C-5. Appropriations and allocations.** The following appropriations and
36 allocations are made.

37 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

38 **Executive Branch Departments and Independent Agencies - Statewide 0017**

39 Initiative: Deappropriates funds on a statewide basis for savings to be identified under
40 this Part in existing state programs that result from the expansion of MaineCare
41 eligibility.

1	GENERAL FUND	2013-14	2014-15
2	Unallocated	\$0	(\$5,900,000)
3			
4	GENERAL FUND TOTAL	<u>\$0</u>	<u>(\$5,900,000)</u>

5	ADMINISTRATIVE AND FINANCIAL		
6	SERVICES, DEPARTMENT OF		
7	DEPARTMENT TOTALS	2013-14	2014-15
8			
9	GENERAL FUND	\$0	(\$5,900,000)
10			
11	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>(\$5,900,000)</u>

12 **LEGISLATURE**

13 **Legislature 0081**

14 Initiative: Provides one-time funding for the Office of Fiscal and Program Review to
 15 contract with a nonpartisan research organization to evaluate the impact of Medicaid
 16 expansion.

17	GENERAL FUND	2013-14	2014-15
18	All Other	\$0	\$100,000
19			
20	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$100,000</u>

21	LEGISLATURE		
22	DEPARTMENT TOTALS	2013-14	2014-15
23			
24	GENERAL FUND	\$0	\$100,000
25			
26	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$100,000</u>

27	SECTION TOTALS	2013-14	2014-15
28			
29	GENERAL FUND	\$0	(\$5,800,000)
30			
31	SECTION TOTAL - ALL FUNDS	<u>\$0</u>	<u>(\$5,800,000)</u>

32 **PART D**

33 **Sec. D-1. Appropriations and allocations.** The following appropriations and
 34 allocations are made.

1 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

2 **Medical Care - Payments to Providers 0147**

3 Initiative: Provides funds for the costs of MaineCare coverage for newly eligible adults
4 under 139% of the federal poverty line.

5	FEDERAL EXPENDITURES FUND	2013-14	2014-15
6	All Other	\$0	\$263,724,061
7			
8	FEDERAL EXPENDITURES FUND TOTAL	<u>\$0</u>	<u>\$263,724,061</u>

9 **Medical Care - Payments to Providers 0147**

10 Initiative: Provides funds for the costs of MaineCare coverage for the childless adult
11 waiver population.

12	FEDERAL EXPENDITURES FUND	2013-14	2014-15
13	All Other	\$0	\$61,474,140
14			
15	FEDERAL EXPENDITURES FUND TOTAL	<u>\$0</u>	<u>\$61,474,140</u>

16 **Office of Family Independence - District 0453**

17 Initiative: Provides funding for 6 Family Independence Unit Supervisor positions, 13
18 Office Assistant II positions and 64 Eligibility Specialist positions in the Office for
19 Family Independence program and for related All Other costs necessary to implement and
20 administer the MaineCare eligibility changes. This assumes the Eligibility Specialist
21 positions are funded 25% General Fund and 75% Other Special Revenue Funds and the
22 other positions are funded 50% General Fund and 50% Other Special Revenue Funds.

23	GENERAL FUND	2013-14	2014-15
24	POSITIONS - LEGISLATIVE COUNT	0.000	83.000
25	Personal Services	\$0	\$1,896,901
26	All Other	\$0	\$167,534
27			
28	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$2,064,435</u>

29	OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
30	Personal Services	\$0	\$4,308,290
31	All Other	\$0	\$326,739
32			
33	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$4,635,029</u>

1	HEALTH AND HUMAN SERVICES,		
2	DEPARTMENT OF (FORMERLY DHS)		
3	DEPARTMENT TOTALS	2013-14	2014-15
4			
5	GENERAL FUND	\$0	\$2,064,435
6	FEDERAL EXPENDITURES FUND	\$0	\$325,198,201
7	OTHER SPECIAL REVENUE FUNDS	\$0	\$4,635,029
8			
9	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$331,897,665

10 **PART E**

11 **Sec. E-1. 22 MRSA §3173-C, sub-§7**, as amended by PL 2009, c. 415, Pt. A,
 12 §12, is further amended to read:

13 **7. Copayments.** Notwithstanding any other provision of law, the following
 14 copayments per service per day are imposed and reimbursements are reduced, or both, to
 15 the following levels:

- 16 A. Outpatient hospital services, \$3;
- 17 B. Home health services, \$3;
- 18 C. Durable medical equipment services, \$3;
- 19 D. Private duty nursing and personal care services, \$5 per month;
- 20 E. Ambulance services, \$3;
- 21 F. Physical therapy services, \$2;
- 22 G. Occupational therapy services, \$2;
- 23 H. Speech therapy services, \$2;
- 24 I. Podiatry services, \$2;
- 25 J. Psychologist services, \$2;
- 26 K. Chiropractic services, \$2;
- 27 L. Laboratory and x-ray services, \$1;
- 28 M. Optical services, \$2;
- 29 N. Optometric services, \$3;
- 30 O. Mental health clinic services, \$2;
- 31 P. Substance abuse services, \$2;
- 32 Q. Hospital inpatient services, \$3 per patient day;
- 33 R. Federally qualified health center services, \$3 per patient day, effective July 1,
 34 2004; and
- 35 S. Rural health center services, \$3 per patient day.

1 The department may adopt rules to adjust the copayments set forth in this subsection.
2 The rules may adjust amounts to ensure that copayments are deemed nominal in amount
3 and may include monthly limits or exclusions per service category. The need to maintain
4 provider participation in the Medicaid program to the extent required by 42 United States
5 Code, Section 1396a(a)(30)(A) or any successor provision of law must be considered in
6 any reduction in reimbursement to providers or imposition of copayments.

7 For an adult when the adult's family income is above 100% of the nonfarm income
8 official poverty line, the department shall adopt rules to adjust the copayments
9 established under this subsection to reflect the maximum allowable amounts authorized
10 under 42 United States Code, Section 1396o; to increase copayments as authorized by 42
11 United States Code, Section 1396o(h); and in compliance with 42 United States Code,
12 Section 1396o(b)(3) to impose a copayment for services received at a hospital emergency
13 room of up to twice the amount established as the copayment for outpatient services if the
14 services are not emergency services. The department shall track aggregate copayments in
15 compliance with 42 Code of Federal Regulations, Section 447.68 and, by rule, make
16 adjustments to copayments to ensure compliance with federal law.

17 **Sec. E-2. Contingent effective date.** Those sections of this Act that enact the
18 Maine Revised Statutes, Title 22, section 3174-G, subsection 1, paragraphs H and I take
19 effect 30 days after the United States Department of Health and Human Services, Centers
20 for Medicare and Medicaid Services confirms in writing to the Commissioner of Health
21 and Human Services that the enhanced Federal Medical Assistance Percentage set forth in
22 Section 1905(y)(1) of the United States Social Security Act is applicable to the
23 individuals who received coverage as of December 1, 2009, who are described in Title
24 22, section 3174-G, subsection 1, paragraph F and who are defined in Section 1905(y)(2)
25 of the United States Social Security Act. Upon receipt of confirmation from the federal
26 Centers for Medicare and Medicaid Services, the Commissioner of Health and Human
27 Services shall notify in writing the President of the Senate, the Speaker of the House of
28 Representatives and the Revisor of Statutes and shall provide them with a copy of the
29 written confirmation.

30 SUMMARY

31 This bill accomplishes the following.

32 Part A expands medical coverage under the MaineCare program to adults who
33 qualify under federal law with incomes up to 133% of the nonfarm income official
34 poverty line, with the 5% federal income adjustment for family size, and qualifies Maine
35 to receive federal funding for 100% of the cost of coverage for members who enroll
36 under the expansion. Adults who will be eligible are those 21 to 64 years of age effective
37 July 1, 2014 and adults 19 and 20 years of age beginning October 1, 2019. The
38 expansion of Medicaid eligibility contained in this Part is repealed if 3 circumstances
39 occur: the enhanced Federal Medical Assistance Percentage for calendar years 2014
40 through 2020 is reduced below certain stated levels; the reduced enhanced Federal
41 Medical Assistance Percentage has taken effect; and after the occurrence of the reduction
42 of the enhanced Federal Medical Assistance Percentage the Legislature has convened and

1 conducted a session of at least 30 calendar days. This bill repeals the expansion of
2 medical coverage under the MaineCare program on December 31, 2016.

3 Part B requires the Commissioner of Health and Human Services to take all steps
4 necessary to secure an enhanced federal match rate for services provided to the
5 MaineCare childless adult waiver population and to report to the Joint Standing
6 Committee on Appropriations and Financial Affairs and the Joint Standing Committee on
7 Health and Human Services by November 1, 2014 on these efforts.

8 Part C requires the Office of Fiscal and Program Review to contract with a
9 nonpartisan research organization to evaluate the impact of the MaineCare expansion on
10 programs and services that do not currently receive Federal Medical Assistance
11 Percentage matching funds or do not qualify for enhanced Federal Medical Assistance
12 Percentage matching funds under the federal Patient Protection and Affordable Care Act,
13 42 United States Code, Section 18001, et seq., with the goal of identifying and
14 maximizing General Fund savings. Part C requires a report by October 1st in 2014 and
15 2015 and February 15, 2016 to the joint standing committee of the Legislature having
16 jurisdiction over appropriations and financial affairs, the joint standing committee of the
17 Legislature having jurisdiction over health and human services matters and the joint
18 standing committee of the Legislature having jurisdiction over criminal justice and public
19 safety matters on the amount of General Fund savings resulting from the MaineCare
20 expansion. The report must include the amount of savings expected and realized during
21 fiscal years 2014-15 and 2015-2016 by service area or program. Part C requires the State
22 Budget Officer to calculate the amount of savings that applies against each General Fund
23 account for all departments and agencies from savings associated with the MaineCare
24 expansion and to transfer the amounts by financial order upon the approval of the
25 Governor. It requires the State Controller to transfer any remaining savings to the
26 MaineCare Stabilization Fund. Part C requires the State Budget Officer to provide a
27 report of the transferred amounts to the joint standing committee of the Legislature
28 having jurisdiction over appropriations and financial affairs no later than June 30, 2015
29 for fiscal year 2014-15 and no later than June 30, 2016 for fiscal year 2015-16.

30 Part D provides funding for positions in the Department of Health and Human
31 Services, Office of Family Independence.

32 Part E amends current law on copayments in the MaineCare program. This bill
33 directs the Department of Health and Human Services to increase copayments for adults
34 with income above 100% of the nonfarm income official poverty line to the maximum
35 allowable under federal law and to increase nominal copayments by the annual
36 percentage increase in the medical care component of the Consumer Price Index for All
37 Urban Consumers. It directs the department to increase MaineCare copayments for
38 services provided in a hospital emergency room when the services are not emergency
39 services and requires the department to track aggregate copayments in compliance with
40 federal law. Part E provides that until the United States Department of Health and
41 Human Services, Centers for Medicare and Medicaid Services confirms that the State will
42 get the enhanced reimbursement rate, the expansion of medical coverage under the
43 MaineCare program will not take effect.