130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document No. 1787

S.P. 625

In Senate, December 9, 2021

An Act To Improve the Quality and Affordability of Primary Health Care Provided by Federally Qualified Health Centers

(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 7, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CLAXTON of Androscoggin.
Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current MaineCare reimbursement rates for services delivered by federally qualified health centers are based on costs of providing services 20 years ago and have not been adjusted sufficiently to keep pace with increases in the costs, intensity and scope of services offered; and

Whereas, MaineCare reimbursement rates for services delivered by federally qualified health centers are substantially lower than the rates paid to certain primary care practices that offer fewer services and fewer programs designed to reduce the need for more expensive specialty and acute care than federally qualified health centers; and

Whereas, the Department of Health and Human Services is currently engaged in a process of radically revising its payment method for primary care services without considering the current inadequacy of federally qualified health center rates or the fact that federally qualified health centers are currently delivering many of the services and programs that the department is seeking to encourage by reforming its payment system; and

Whereas, the current design of the department’s proposed payment reforms, which it intends to implement before the adjournment of the Second Regular Session of the 130th Legislature, will reduce payments to many federally qualified health centers; and

Whereas, in order to preserve and improve the advanced primary care model pioneered by federally qualified health centers in Maine, MaineCare payments for those services must be increased in order to reflect the current costs of providing services before the department establishes an alternative payment model for federally qualified health centers; and

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

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

Sec. 1. 22 MRSA §3174-V, first ¶, as amended by PL 2003, c. 20, Pt. K, §11, is further amended to read:

Beginning in fiscal year 2003-04, the reimbursement requirements listed in subsections 1 and 2 set forth in this section apply to payments for certain federally qualified health centers as defined in 42 United States Code, Section 1395x, subsection(aa)(1993).

Sec. 2. 22 MRSA §3174-V, sub-§3 is enacted to read:

3. Reimbursement rates and adjustments. Notwithstanding any provision of law to the contrary, beginning July 1, 2021, total payments to each federally qualified health center for services provided under the MaineCare program may not be less than the total amount the federally qualified health center would have received in accordance with the payment method in effect as of June 30, 2021, adjusted for inflation in accordance with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, Medicare Economic Index as published in the Federal Register. For
purposes of this subsection, “payment method” means the method by which the department determines how much to pay the federally qualified health center for services provided, including, but not limited to, the prospective payment system set forth in 42 United States Code, Section 1396a(bb)(3), payments calculated under the department’s health home programs and payments calculated for primary care case management services.

Sec. 3. 22 MRSA §3174-V, sub-§4 is enacted to read:

4. Rebasing. The department shall establish a federally qualified health center’s base year beginning January 1, 2019 and in every subsequent calendar year the prospective payment system set forth in 42 United States Code, Section 1396a(bb)(3) is in effect. Rebasing under this subsection must include an adjustment to base year costs that reflects the following:

A. The difference between the prospective payment system rate in the base year and the actual reasonable costs incurred in that calendar year;

B. The amount determined in paragraph A adjusted for inflation in accordance with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, Medicare Economic Index as published in the Federal Register;

C. Findings made by the department relating to the change in the scope of services provided by the federally qualified health center that consider:

(1) The costs arising from changes in the type, intensity, duration or quantity of services provided; and

(2) The costs arising from changes in the characteristics of the population receiving a service that affects the cost of the service; and

D. Additional costs retroactive to the date that the cost increases were first incurred by the federally qualified health center.

Sec. 4. 22 MRSA §3174-V, sub-§5 is enacted to read:

5. Alternative value-based payment. The department may, subject to 42 United States Code, Section 1396a(bb)(6) and any other requirements under federal law, develop a value-based payment model to replace the prospective payment system set forth in 42 United States Code, Section 1396a(bb)(3). In developing a value-based payment model in accordance with this subsection, the department shall consult with federally qualified health centers in this State to the extent provided in 42 United States Code, Section 1396a(bb)(6).

Sec. 5. 22 MRSA §3174-V, sub-§6 is enacted to read:

6. Rulemaking. The department may adopt rules to implement subsections 3 to 5. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 22, section 3174-V, subsection 3 applies retroactively to July 1, 2021. That section of this Act that enacts Title 22, section 3174-V, subsection 4 applies retroactively to January 1, 2019.

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

This bill provides that:

1. Beginning July 1, 2021, the total MaineCare payments to a federally qualified health center may not be lower than the total amount the federally qualified health center would have received in accordance with the payment method in effect as of June 30, 2021, adjusted for inflation;

2. The rebasing of reimbursement rates must be based on a change in the scope of services provided by a federally qualified health center, actual costs incurred and other factors;

3. The Department of Health and Human Services may develop alternative value-based payment models in accordance with federal law; and

4. Rules adopted to implement this legislation are major substantive rules.