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Public Law
124th Legislature
Second Regular Session

Chapter 595
H.P. 984 - L.D. 1408

An Act To Establish the Universal Childhood Immunization Program

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

Sec. 1. 5 MRSA §12004-G, sub-§15-B is enacted to read:

15-B.

	<u>Not Authorized</u>	
<u>Maine Vaccine</u>		<u>22 MRSA</u>
<u>Board</u>		<u>§1066</u>
<u>Human</u>		
<u>Services:</u>		
<u>Immunization</u>		

Sec. 2. 22 MRSA §1066 is enacted to read:

§ 1066. Universal Childhood Immunization Program

1. Program established. The Universal Childhood Immunization Program is established to provide all children from birth until 19 years of age in the State with access to a uniform set of vaccines as determined and periodically updated by the Maine Vaccine Board. The program is administered by the department for the purposes of expanding access to immunizations against all diseases as recommended by the federal Department of Health and Human Services, Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, optimizing public and private resources and lowering the cost of providing immunizations to children. The program is overseen by the Maine Vaccine Board.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advisory committee" means the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, Centers for Disease Control and Prevention or its successor organization.

B. "Assessed entity" means a health insurance carrier licensed under Title 24-A or a 3rd-party administrator registered under Title 24-A.

C. "Board" means the Maine Vaccine Board established in subsection 3.

D. "Child" means a person who has not attained 19 years of age and who resides in the State.

- E. "Covered life months" means the number of months during a calendar year that a person is covered under a health insurance plan provided by a health insurance carrier.
- F. "Fund" means the Childhood Immunization Fund established in subsection 7.
- G. "Health insurance carrier" means:
- (1) An insurance company licensed in accordance with Title 24-A to provide health insurance;
 - (2) A health maintenance organization licensed pursuant to Title 24-A, chapter 56;
 - (3) A preferred provider arrangement administrator registered pursuant to Title 24-A, chapter 32;
 - (4) A fraternal benefit society as defined in Title 24-A, section 4101;
 - (5) A nonprofit hospital or medical service organization or health plan licensed pursuant to Title 24;
 - (6) A multiple-employer welfare arrangement approved by the superintendent under Title 24-A, section 6603; or
 - (7) A self-insured employer subject to state regulation as described in Title 24-A, section 2848-A.
- H. "New vaccine" means a vaccine recommended by the advisory committee for which an initial federal contract price is established by the United States Department of Health and Human Services, Centers for Disease Control and Prevention between October 1st and July 1st.
- I. "Program" means the Universal Childhood Immunization Program established in subsection 1.
- J. "Provider" means a person licensed by this State to provide health care services to individuals or a partnership or corporation made up of those persons.
- K. "Service agent" means a person or entity qualified by good business reputation, training, education and experience to administer the fund and perform responsibilities assigned by the board. A service agent must hold all licenses, registrations and permits required to engage in activities or undertake responsibilities assigned by the board.
- L. "Superintendent" means the Superintendent of Insurance.
- M. "Total costs of the fund" means the costs of vaccines provided under the program to children projected to be covered by assessed entities during the succeeding program year and the annual operating expenses of the board, including costs the board may incur for staff, a service agent, legal representation, administrative support services and other expenses approved by the board.

3. Maine Vaccine Board. The Maine Vaccine Board is established pursuant to this subsection to oversee the program.

A. The board consists of 10 members.

(1) The commissioner shall serve as an ex officio, nonvoting member.

(2) The Treasurer of State shall serve as an ex officio, nonvoting member.

(3) The Governor shall appoint 8 members, as follows:

(a) Three representatives of health insurance carriers, appointed from a list of nominees submitted by a statewide association of health insurance carriers;

(b) Three representatives of providers in the State, appointed from lists of nominees submitted by statewide associations of providers, including associations of primary care providers, allopathic and osteopathic physicians, nurse practitioners and persons with expertise in public health;

(c) A representative of employers that self-insure for health coverage, appointed from lists of nominees submitted by statewide associations of employers; and

(d) A representative of the pharmaceutical manufacturing industry, appointed from a list of nominees submitted by a statewide association of pharmaceutical manufacturers.

B. With the exception of the representative of the pharmaceutical manufacturing industry, who serves a one-year term, the term of an appointed member to the board is 3 years. All members, with the exception of the representative of the pharmaceutical manufacturing industry, may serve successive terms. A member whose term has expired may serve until the appointment of the member's successor.

C. The board shall elect a chair from among its members to serve a 2-year term or for the duration of that person's term. The chair may serve successive terms. Five voting members constitute a quorum. Decisions of the board require the affirmative vote of 5 members.

D. The board shall meet 4 times per year and when a meeting is called by the chair and shall oversee the fund and program and adopt policies and procedures to administer the program and the fund.

E. By January 1, 2011 and annually thereafter, the board shall determine the list of vaccines to be made available by the program during the succeeding program year beginning July 1st. In making its determination, the board shall consider:

(1) Vaccines recommended by the advisory committee that are available under contract with the United States Department of Health and Human Services, Centers for Disease Control and Prevention;

(2) Recommendations of the department, based on the department's review of the advisory committee recommendations; and

(3) Clinical and cost-benefit analyses.

The board shall review new vaccines and update the list of vaccines to be made available through the program on a timely basis in accordance with the considerations described in this paragraph.

F. The board shall contract for staff, administrative support services and, if necessary, legal representation; review financial, cost and other information about the program annually or more often as determined by the chair; and pay the costs of the service agent under subsection 9, legal representation and contracted services from the fund.

4. Program requirements. The program shall make available to providers vaccines as determined by the board pursuant to subsection 3, paragraph E.

5. Assessments. By January 1, 2011 and annually thereafter, the board shall determine an assessment for each assessed entity in accordance with this subsection. The board shall provide a mechanism to protect against duplicate counting of children. The board may conduct an audit of the number of covered life months for children as reported by an assessed entity. An assessment determination made pursuant to this subsection is an adjudicatory proceeding within the meaning of Title 5, chapter 375, subchapter 4.

A. In determining the amount of the assessment, the board shall:

(1) Determine the total costs of the fund for the succeeding program year;

(2) Add a reserve of up to 10% of the total costs of the fund under subparagraph (1) for unanticipated costs associated with providing vaccines to children covered by the assessed entity;

(3) Subtract the amount of any unexpended assessments collected in the preceding year and any unexpended interest accrued to the fund during the preceding year; and

(4) Calculate the assessment on a monthly basis per child to be paid by an assessed entity by dividing the amount determined in accordance with subparagraphs (1), (2) and (3) by the number of children projected to be covered by the assessed entity during the succeeding program year divided by 12.

B. The board shall provide the assessed entity with notice of the assessment amount for the succeeding program year no later than January 1, 2011 and annually thereafter.

C. Beginning July 1, 2011, the assessment must be paid on a quarterly basis as follows:

(1) An assessed entity shall pay a quarterly assessment equal to the monthly assessment rate per child as described under paragraph A, subparagraph (4) multiplied by the number of child member months covered by the assessed entity in the preceding calendar quarter; and

(2) The assessment must be paid within 45 days following the close of the calendar quarter.

D. After the close of a program year, the board shall reconcile the total assessments paid by assessed entities, including interim assessments determined under paragraph E, with the actual costs of vaccines provided under the program to children covered by assessed entities during that program year and the annual operating expenses of the program during that program year. Any unexpended assessments must be used to reduce the assessment in the succeeding program year as required under paragraph A, subparagraph (3).

E. The board may determine an interim assessment for new vaccines that the board has made available through the program pursuant to subsection 3, paragraph E. The board shall calculate the interim assessment in accordance with paragraph A, and the interim assessment is payable the calendar quarter that begins no less than 30 days following the establishment of the federal contract price. The board may not impose more than one interim assessment per year, except in the case of a public health emergency declared in accordance with state or federal law.

F. If the combination of funding available from the United States Department of Health and Human Services, Centers for Disease Control and Prevention, Vaccines for Children Program and the immunization grant program under the federal Public Health Service Act, Section 1928 of the Social Security Act, 42 United States Code, Section 1396s is insufficient to provide coverage for vaccines for the children who qualify for vaccines under the Vaccines for Children Program, money from the fund may not be used to cover the cost of vaccines for children who would otherwise be provided vaccines under the Vaccines for Children Program.

G. If the assessments under this subsection are insufficient to cover the cost of vaccines to be provided to children covered by assessed entities, the State is not required to cover the cost of vaccines for those children.

6. Failure to pay assessment. If an assessment under subsection 5 is not paid on the due date established by the board, the provisions of this subsection apply.

A. The board shall submit a report to the superintendent listing each assessed entity that has failed to pay an assessment under subsection 5.

B. If an assessed entity has not paid an assessment under subsection 5 within 45 days following the close of the calendar quarter, interest accrues at 12% per annum on or after the due date. Interest paid under this paragraph must be deposited into the fund. Upon application, the board may waive such interest payments for good cause shown.

The superintendent may take any action authorized under Title 24-A to enforce collection of any unpaid assessment or fine and may impose any penalty authorized under Title 24A for noncompliance with this section if the assessed entity has engaged in a pattern of conduct that demonstrates a lack of good faith in complying with the requirements of this subsection.

7. Fund. The Childhood Immunization Fund is established for the sole purpose of funding the program, including any costs of vaccines provided under the program to children and any costs the board may incur for staff, a service agent, administrative support services, legal representation and contracted services. The fund is administered by the board or the service agent, which shall act as a fiduciary and manage and invest the fund in conformance with prudent investor standards and maintain complete records of all assets, investments, deposits, disbursements and other transactions of the fund. All money and securities in the fund must be held in trust by the Treasurer of State for the purpose of making payments under this section and are not money or property for the general use of the State. The Treasurer of State is the custodian of the fund and may make disbursements only upon written direction from the board or the service agent. All assessments collected pursuant to this section, all interest on the balance in the fund and all income from any other source must be deposited into the fund. The fund does not lapse. No portion of the fund may be used to subsidize other programs or budgets.

8. Reporting. By January 15th of each year the board shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the operation of the program, the progress of the program in expanding access to immunizations for children and the assets, investments and expenditures of the fund.

9. Service agent. The board, by written contract, may delegate administration of the fund to a service agent. The service agent:

- A. May contract with attorneys acceptable to the board for legal representation for the board;
- B. May levy assessments, institute collection procedures, including legal action if necessary, and deposit money in the fund with the Treasurer of State if those funds are not needed to meet immediate cash flow demands; and
- C. Shall make recommendations to the board regarding policies, rules and standards necessary for the proper administration of the fund.

10. Freedom from liability. There is no liability on the part of, and a cause of action may not arise against, a member of the board for any acts or omissions in the performance of the member's duties under this section. This immunity does not extend to willful neglect or malfeasance that would otherwise be actionable.

11. Rules. The department and the board shall jointly adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 3. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 22, section 1066, subsection 3, paragraph B, with respect to the initial appointees to the Maine Vaccine Board under Title 22, section 1066, subsection 3, paragraph A, subparagraph (3), divisions (a) and (b), the Governor shall appoint one representative of health insurance carriers and 2 representatives of providers to terms of 2 years and the remaining members to 3-year terms.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Universal Childhood Immunization Program N105

Initiative: Provides a baseline allocation of funds for the costs of purchasing vaccines for children and for the authorized operating expenses of the newly established Maine Vaccine Board.

CHILDHOOD IMMUNIZATION TRUST FUND	2009-10	2010-11
Unallocated	\$0	\$500
CHILDHOOD IMMUNIZATION TRUST FUND TOTAL	\$0	\$500

Effective July 12, 2010