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Public Law
124th Legislature
Second Regular Session

Chapter 643
S.P. 707 - L.D. 1804

**An Act Concerning Certain MaineCare Rules Regarding
Services Provided through the Child Development
Services System and School Administrative Units**

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

Whereas, this Act is intended to provide legislative oversight of rules adopted by the Department of Health and Human Services that relate to implementation of special education and related services provided through the Child Development Services System and school administrative units; and

Whereas, it is critical that this oversight begin as soon as possible to ensure protection of children in this State in need of services; and

Whereas, this legislation must take effect prior to July 1, 2010 in order for the Department of Health and Human Services and the Department of Education to provide information and training to Child Development Services System regional sites and school administrative units regarding the implementation of revised rules governing Medicaid payment for services that qualify for reimbursement; 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-PP is enacted to read:

§ 3174-PP. Medicaid reimbursement for eligible services provided through the Child Development Services System and school administrative units

1. Consultation. Prior to adopting or amending any rule that pertains to the administration of a program of Medicaid coverage established by the department pursuant to this chapter for services that qualify for reimbursement and are provided through the auspices of the Child Development Services System and school administrative units in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., the Office of MaineCare Services shall consult with the following interested parties on the proposed adoption or amendment of rules:

- A. The Commissioner of Education or the commissioner's designee;
- B. The Executive Director of the Maine School Management Association or the executive director's designee;
- C. The executive director of a statewide organization of administrators of services for children with disabilities or the executive director's designee;
- D. The executive director of a statewide organization for disability rights or the executive director's designee; and
- E. The Executive Director of the Maine Developmental Disabilities Council or the executive director's designee.

2. Monthly report. The Office of MaineCare Services shall prepare and submit at the beginning of each month a report that includes a detailed statement of the status of any proposed adoption or amendment of rules that pertain to the Medicaid programs specified in subsection 1 to the joint standing committee of the Legislature having jurisdiction over education matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters.

Sec. 2. Rules. The Department of Health and Human Services shall amend or adopt routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, including rules that address the following:

1. Inclusion of the interested parties identified in Title 22, section 3174-PP, subsection 1 in the MaineCare Advisory Committee. The rules must also provide that:

- A. The department and the interested parties agree upon a process that is appropriate for reviewing the scope of the policy considerations that pertain to the Medicaid programs specified in Title 22, section 3174-PP, subsection 1; and
- B. The interested parties may serve as members of the MaineCare Advisory Committee or as members of a subcommittee of the MaineCare Advisory Committee, as agreed to by the department after consultation with the interested parties; and

2. Obtaining the maximum available federal revenue from the Medicaid program for services that qualify for reimbursement and minimizing the administrative burden for the Child Development Services System regional sites and school administrative units.

Sec. 3. Rules review. The Department of Education and the Department of Health and Human Services shall review the Department of Health and Human Services Chapter 101 rules including, but not limited to, the MaineCare Benefits Manual, Chapters II and III, Sections 28, 41, 65, 68, 85, 96 and 109, in order to ensure that the rules satisfy federal Medicaid requirements applicable to services provided through the auspices of the Child Development Services System and school administrative units and to also ensure continued access by Child Development Services System regional sites and schools to Medicaid payment for services that qualify for reimbursement. The Department of Education and the Department of Health and Human Services shall invite the participation of the following entities in conducting the review:

- 1. The Attorney General or the Attorney General's designee;

2. The Executive Director of the Maine School Management Association or the executive director's designee;
3. The Executive Director of the Maine Administrators of Services for Children with Disabilities or the executive director's designee;
4. The Executive Director of the Disability Rights Center or the executive director's designee; and
5. The Executive Director of the Maine Developmental Disabilities Council or the executive director's designee.

Sec. 4. Interim and final reports. No later than May 15, 2010, the Commissioner of Education and the Commissioner of Health and Human Services shall submit an interim report on the status of the rules reviewed under section 3 to the Joint Standing Committee on Education and Cultural Affairs. No later than July 1, 2010, the commissioners shall submit a 2nd interim report on the status of the rules reviewed under section 3, including preliminary recommendations on any proposed changes to the rules, to the Joint Standing Committee on Education and Cultural Affairs. The commissioners shall present a final report, including any recommendations and the status of the rules reviewed under section 3 by January 3, 2011 to the joint standing committee of the Legislature having jurisdiction over education matters.

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

Effective April 12, 2010.