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Resolve
123rd Legislature
First Regular Session

Chapter 44
H.P. 38 - L.D. 37

Resolve, Regarding Legislative Review of Portions of MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for Persons with Mental Retardation, a Major Substantive Rule of the Department of Health and Human Services, Office of MaineCare Services

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1 Adoption. Resolved: That final adoption of portions of MaineCare Benefits Manual, Chapter III, Section 50, Principles of Reimbursement for Intermediate Care Facilities for Persons with Mental Retardation, a provisionally adopted major substantive rule of the Department of Health and Human Services, Office of MaineCare Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized if the following changes are made to the rule:

1. In section 2054 on reimbursement for contracted services, the rule regarding verification of the cost of services furnished under the contract must be changed to exempt from that requirement contracts with persons or entities that already have contracts with the Department of Health and Human Services and contracts with consultants;

2. In section 3024.12 on provision of a provider's federal income tax return, the rule must be changed to exclude from this requirement leases for office or day program space when the lease agreement is between unrelated parties;

3. In section 3024.3 on leases between individuals or organizations not related by common control or ownership, the rule must be changed to clarify that rule section 3024.3 does not apply to leases for office space or day program space in facilities that are separate from an intermediate care facility for persons with mental retardation (ICF-MR). The rule must provide that, with regard to those leases, the provider must demonstrate that the costs do not exceed prevailing market rates;

4. In section 4011.1.n on reimbursement for directors' and officers' liability insurance in the variable cost component, the provisionally adopted rule is approved. However, to accomplish the purposes of section 4011.1.n, the rule must be changed in section 7021.4 to adjust the base year so that directors' and officers' liability insurance costs are included in base year costs;

5. In section 4140 on reimbursement for a facility's motor vehicle or vehicles, the rule must be changed to allow for reimbursement of more than one vehicle if approved by the Department of Health and Human Services, Office of Adults with Cognitive and Physical Disability Services;

6. In section 4160 on reimbursement in the variable cost component for legal fees, the rule must be changed to exclude the provisionally adopted language on reimbursement for legal fees and to add language on reimbursement for legal fees that reflects the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, Provider Reimbursement Manual - Part 1 (Publication 15-1), section 2183 on reimbursement for legal fees, so that the rule applies to legal fees and costs that relate to the provider's furnishing of patient care; and

7. In section 4171 on reimbursement for staffing while residents are away from the facility at day habilitation programs, the rule must be changed to allow reimbursement of the facility's staffing costs, subject to approval of the facility's staff by the Office of Adults with Physical and Cognitive Disability Services.

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

Effective May 30, 2007.