

CHAPTER 405-B

LIMITATION ON PAYMENTS TO HEALTH CARE INSTITUTIONS

§1861. Limitation on payments to health care institutions

The Legislature is concerned that certain health care institutions have engaged persons with the intent to interfere with, inhibit or disrupt the free exercise of the right of all employees to organize and choose representatives for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection as provided in Title 26, section 931. The Legislature declares that it is consistent with public policy to prohibit the use of funds received from the State for the purpose of engaging those persons. The Legislature acknowledges the right of employers to communicate with employees concerning the issue of unionization and further recognizes that employers may obtain counsel for advice and assistance. [PL 1989, c. 502, Pt. A, §69 (AMD).]

SECTION HISTORY

PL 1983, c. 473 (NEW). PL 1989, c. 502, §A69 (AMD).

§1862. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 473 (NEW).]

1. Disallowed expenditure. "Disallowed expenditure" means an amount paid to any person for those acts or services rendered, which result in:

A. The commission of an unfair labor practice or prohibited practice as determined by:

- (1) The National Labor Relations Board pursuant to the United States Code, Title 29, Section 158;
- (2) The Maine Labor Relations Board pursuant to Title 26, chapter 7, 9, 9-A or 9-B; or
- (3) A court of competent jurisdiction pursuant to Title 26, section 911; and [PL 1983, c. 473 (NEW).]

B. Influencing employees respecting unionization, when costs for these activities are disallowed for reimbursement pursuant to Medicare law and regulation. [PL 1983, c. 473 (NEW).]
[PL 1983, c. 473 (NEW).]

2. Health care institution. "Health care institution" means any person, partnership, association or corporation, including county or local government unit, required to obtain a license pursuant to chapter 405.
[PL 1983, c. 473 (NEW).]

3. Person. "Person" means any person, partnership, association or corporation engaged or employed by a health care institution.
[PL 1983, c. 473 (NEW).]

4. Proportional share. "Proportional share" means the revenue received from the State during the previous 12 months, divided by the sum of revenue received from the State, 3rd party payors and patients during the corresponding 12 months.
[PL 1983, c. 473 (NEW).]

SECTION HISTORY

PL 1983, c. 473 (NEW).

§1863. Recovery of state funds

Upon notification that a health care institution has paid an amount for a disallowed expenditure, the department shall make a determination as to the amount of the disallowed expenditure. The department shall withhold an amount equal to a proportional share of the amount of the disallowed expenditure, according to a schedule determined by the department, from future payments of medical assistance reimbursements to be received by the health care institution. If that agency or court determination of a violation is under appeal, the withholding shall be stayed pending a final adverse decision against the institution. [PL 1983, c. 473 (NEW).]

SECTION HISTORY

PL 1983, c. 473 (NEW).

§1864. Expenditures not included

To the extent consistent with Medicare and Medicaid law and regulation, disallowed expenditures shall not include amounts paid to any person for services rendered as follows: [PL 1983, c. 473 (NEW).]

1. Unfair labor practice. In the commission of any unfair labor practice out of necessity to obtain judicial review of a unit determination finding;

[PL 1983, c. 473 (NEW).]

2. Contract negotiations. Reasonable expenses for contract negotiations or preparations therefor;

[PL 1983, c. 473 (NEW).]

3. Disputes concerning contracts. Reasonable expenses associated with disputes concerning the interpretation of contracts;

[PL 1983, c. 473 (NEW).]

4. Attorneys' fees. Expenses for attorneys' fees arising out of a court or agency proceeding or appeal or in preparation therefor; or

[PL 1983, c. 473 (NEW).]

5. Educational instruction. Reasonable expenses for educational instruction of supervisors or management employees concerning state or federal labor laws.

[PL 1983, c. 473 (NEW).]

SECTION HISTORY

PL 1983, c. 473 (NEW).

§1865. Reporting requirement

1. Report. Each health care institution which receives funds from the department shall annually report to the department the amount paid to any person for the purpose of influencing its employees, respecting unionization, or attempts to coerce employees to otherwise interfere with or restrain the exercise of employee rights to organize and choose representatives for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

[PL 1983, c. 473 (NEW).]

2. Violation. Violation of this section shall result in an administrative fine of up to \$500 for each offense, as determined pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.

[PL 1983, c. 473 (NEW).]

SECTION HISTORY

PL 1983, c. 473 (NEW).

§1866. Rules

The Commissioner of Health and Human Services shall adopt rules in order to implement this chapter, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1983, c. 473 (NEW); PL 2003, c. 689, Pt. B, §7 (REV).]

SECTION HISTORY

PL 1983, c. 473 (NEW). PL 2003, c. 689, §B7 (REV).

§1867. Distance restriction on placement of Medicaid recipients

The department may make Medicaid reimbursement for a nursing facility contingent on a maximum distance between a patient's home and the nursing facility if the maximum distance is not more than 60 miles; except that the distance restriction may not be applied to the Maine Veterans' Homes. [PL 2015, c. 397, §2 (AMD).]

SECTION HISTORY

PL 1991, c. 780, §R2 (NEW). PL 1993, c. 205, §1 (RPR). PL 2015, c. 397, §2 (AMD).

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