

LD 2110, An Act To Lower Health Care Costs (President Jackson)

The bill establishes the 11-member **Maine Commission on Affordable Health Care**

- (3) Appointed by the Governor
 - One member as chair with demonstrated expertise in health care delivery, health care management at a senior level or health care finance and administration
 - one member with demonstrated expertise in health care finance and administration
 - one member who is a primary care physician*
- (3) Appointed by the Senate President
 - one member who represents a health care consumer advocacy organization
 - one member who is a health economist
 - one member who has demonstrated expertise in behavioral health, substance use disorder and mental health services and mental health care reimbursement systems
- (3) Appointed by the House Speaker
 - one member who represents the health care workforce
 - one member who is a purchaser of health care representing business management or health benefits administration
 - one member with demonstrated expertise in innovative medical technologies and treatments for patient care
- (2) Ex-officio members
 - Commissioner of Health and Human Services or the commissioner's designee
 - Commissioner of Administrative and Financial Services or the commissioner's designee

*A member of the board may not be employed by, a consultant to, a member of the board of directors of, affiliated with or otherwise a representative of a carrier or other insurer, an agent or broker, a health care provider or a health care facility or health clinic while serving on the board. A member of the board may not be a member, a board member or an employee of a trade association of carriers, health facilities, health clinics or health care providers while serving on the board. A member of the board may not be a health care provider unless the member receives no compensation for rendering services as a health care provider and does not have an ownership interest in a professional health care practice.

A 12-member **Advisory Council** is established for the sole purpose of advising the board on establishing annual spending targets. It is comprised of:

- Governor or the Governor's designee
- Commissioner of Administrative and Financial Services or designee
- Commissioner of Corrections or designee
- Commissioner of Health and Human Services or designee
- Attorney General or designee
- Executive director of the office of employee health and benefits within the Department of Administrative and Financial Services, Bureau of Human Resources or designee
- Representative from the Maine Service Employees Association appointed by the Governor from a list of nominees submitted by the Association
- Representative from the Maine Education Association appointed by the Governor from a list of nominees submitted by the Association

- Representative from the Maine Municipal Association appointed by the Governor from a list of nominees submitted by the Association
- Representative from the University of Maine System, appointed by the Governor from a list of nominees submitted by the System
- Representative from the Maine Community College System, appointed by the Governor from a list of nominees submitted by the System
- Representative of consumer interests, who serves a 3-year term and is appointed by the Governor

The Commission is charged with establishing annual **health care cost growth benchmarks** and an **annual report** outlining 'spending trends and underlying factors, long with any recommendations for strategies to increase efficiency of the health care system.'

Health Care Cost Growth Benchmarks

Every April, starting in 2021, a health care growth benchmark shall be established for the average growth in total health care expenditures for the next calendar year. The first year calculation must be equal to the growth rate of potential gross state product but can't be more than 3.6%. The rate in subsequent years must be equal to the potential gross state product growth rate with no limitations.

Public hearings must be held each year and use MHDO data to compare growth rates to the benchmark. Any recommendation to modify a benchmark must be approved by 2/3 of the Commission.

The Commission will be mandated to hold annual public cost trend hearings based on data from the Maine Health Data Organization comparing the growth in total health care spending in the State to the health care cost growth benchmark established by the Commission. The hearings must examine health care provider, provider organization and private and public health care payor costs, prices and cost trends, with particular attention to factors that contribute to cost growth within the State's health care system.

Included in those asked to testify at annual hearings shall be insurance carriers that pay more than 10% above or more than 10% below the average relative price or entering into alternative payment contracts that vary by more than 10%. A payor that provides testimony shall explain the extent of price variation. Any testifiers will be under oath and subject to 'examination and cross-examination.'

Requirements for Health Care Entities* Exceeding Annual Benchmarks

* health care entity means a clinic, hospital, ambulatory surgical center, physician organization, accountable care organization or payor. Health care entities with a patient panel of 5,000 or fewer patients OR one that collectively receives less than \$10,000,000 in annual net patient service revenue is exempt from this process under the bill.

Any health care entity that has been identified as exceeding the health care cost growth benchmark will receive notice from the Commission starting in 2024. Starting in 2023, the Commission is mandated to establish procedures to improve efficiency and reduce growth by requiring certain health care entities to file and implement performance improvement plans if they exceed certain growth benchmarks.

A health care entity may request a waiver from any improvement plan requirement by submitting relevant information as outlined in the bill, including, but not limited to, utilization trends, long-term efficiency strategies, whether increases were unanticipated, and data on the overall financial condition of the entity.

The timetable for any improvement plan cannot exceed 18 months and the Commission has the option to reject the improvement plan. Health care entities may file amendments to their improvement plan at any time. The Commission may assess up to a \$500,000 civil fine, as a last resort, toward any health care entity that willfully neglects to file a required improvement plan, fails to file or implement an acceptable plan

Health Care Quality Targets

The Commission will develop health care quality measures and targets for all public and private payors starting in 2023, including targets for ED use, opioid overdose deaths and cardiovascular health risk factors

Health Care Spending Targets—including Prescription Drugs

The Commission shall, starting in 2021, determine annual health care spending targets for public payors and determine spending targets on specific prescription drugs or services that may cause affordability challenges. Public payor excludes the MaineCare program.

Prescription Drug Spending Recommendations

The Commission will consult with a member of each identified public payor to determine methods to meet spending targets. Including, but not limited to:

- Rebate negotiating on drugs that contribute most to spending
- Changing formularies when sufficient rebates cannot be achieved
- Establish a common formulary & prohibit carriers from offering any drugs outside the formulary
- Bulk purchasing and work with other states for great economies of scale
- Allow carriers covering small businesses & individuals to participate in the public benefit for a fee

Health Care Spending Recommendations

The Commission shall determine methods for a public payor to meet the health care spending targets potentially using the following methods and make associated recommendations:

- Changing plan design to lower premiums and cost sharing
- Establish a global budget
- Reference-based pricing
- Value-based purchasing
- Consolidating public payor plans
- Purchase using a single purchasing agreement
- Collaborate with other states for certain services or negotiating with providers
- Procuring expert administration services

The Commission will also serve as a resource for consumers experiencing problems accessing health coverage and to resolve consumer complaints in cooperation with the Consumer Health Care Division