MAY/JUNE 2010

Maine medicine

MAINE MEDICAL ASSOCIATION

IN THIS ISSUE

Act Now to Help Preserve Access for Medicare Patients!

With the Medicare payment cut for physicians now delayed only until May 31, 2010, Maine physicians need to take action now to advocate that the Congress once and for all repeal the flawed sustainable growth rate (SGR) formula and establish a new payment system that reimburses physicians fairly for the cost of providing services to Medicare recipients. Pushing the payment cut down the road year-to-year and now month-to-month is as unfair to physicians and their Medicare patients as it is financially irresponsible. Each month that passes without repeal adds to the ultimate cost of replacing the formula.

The cost to repeal the formula and freeze payment rates is estimated by the independent Congressional Budget Office (CBO) to be nearly $250 billion. But by 2015, the cost is estimated to be $500 billion. Maine physicians and MMA staff made the point to Maine's congressional delegation in meetings in Washington recently that it will never be less costly than it is right now to permanently repeal the formula. Maine Senators Olympia Snowe and Susan Collins are critical to the effort to permanently repeal the formula as it will take sixty votes in the Senate and therefore any solution must have an element of bi-partisanship.

Maine is uniquely unsuited for the payment cut, as we have the oldest population in the country and thus a higher percentage of Medicare patients than other states. And we have a large number of Medicaid patients (MaineCare) and a significant shortage of physicians. While physicians in some other states may simply choose not to accept Medicare patients, that solution is not available in many areas of the state, nor is it the solution most Maine physicians would prefer.

As it is essential that the permanent solution to the SGR be enacted before the May 31st deadline, physicians need to communicate to Senators Snowe and Collins the urgency of the situation and urge them to support legislation that would permanently repeal the sustainable growth rate and replace it with targets similar to those included in the House bill last Fall.

Republicans in the Senate, and some moderate Democrats, do not currently support a permanent repeal of the SGR without the cost of such a solution being paid for, as opposed to increasing the already burgeoning federal deficit. Senators Snowe and Collins should be encouraged to find sufficient offsets in the President's budget to pay for the SGR fix.

Not Too Early to Plan for MMA's 157th Annual Meeting

MMA's 157th Annual Meeting will be held in Bar Harbor from September 10-12, 2010. The educational sessions will begin again at Jackson Laboratories on Friday afternoon, September 10th at 1:00 p.m. The theme for this year's meeting is *Life Transitions for Patients, Families and Communities* and features presentations on aging and related topics, including scientists from Jackson's Center for Aging matched with practicing clinicians. Sunday morning will feature a Gubernatorial Forum with candidates running for Governor addressing issues related to public health.

Following the Friday sessions at Jackson Laboratories, the Saturday and Sunday morning sessions will be held at the conference center (The Bar Harbor Club) associated with the Harborside Hotel and Marina. The Saturday afternoon CME session is entitled, *Transitions in Health - Transitions in Care* and will feature a panel moderated by Laurel Coleman, M.D. highlighting some of the challenges faced by patients and health care providers when health status changes.

Attendees will convene Saturday morning for the general membership meeting. At approximately 10:00am, the fifty-year pin recipients will be recognized. This year's class of twenty-four graduates from 1960 includes two past MMA Presidents and many other outstanding leaders of medicine in Maine.

On Saturday evening, MMA President David McDermott, M.D., M.P.H. will turn the Presidential gavel over to Jo Linder, M.D. The Mary Cushman Humanitarian Award will also be presented during the Annual Banquet.

On Sunday morning, preceding the Gubernatorial Forum, interested attendees will run the 30th Annual Edmund Hardy Road Race. MMA is making an attempt to invite all previous runners to join us for this special anniversary race. Andrew MacLean, Deputy EVP, will once again serve as the Race Director.

Watch for registration materials which will be in the mail to members later this month. Registration will also be available on the MMA website at www.mainemed.com after June 1st. For more information contact Diane McMahon at 622-3374, ext. 216 or via e-mail to dmcmahon@mainemed.com. For information on exhibiting, contact Lisa Martin at 622-3374, ext. 221 or via e-mail to lmartin@mainemed.com.

September 10th-12th in Bar Harbor

Survey: Each Physician Makes $1.5 Million for Hospitals

While physicians are the primary providers of medical care at the nation's hospitals, a new survey suggests they also are key drivers of hospital revenue. According to the survey, a single physician generates an average of $1,543,788 a year in net revenue on behalf of his or her affiliated hospital.

Conducted by Merritt Hawkins, a national company involved in the permanent placement of physicians, the survey asked hospital chief financial officers to quantify how much revenue physicians in 17 specialties generated for their hospitals in the last 12 months. This included both net inpatient and outpatient revenue derived from patient referrals, tests and procedures performed in the hospital.

Some of the topics included in the report are:

Top revenue-generating specialties

Average revenue generated by physician specialty

Specialty comparisons for 2010, 2007, 2004, and 2002

Cost/benefit analysis

To receive your free copy of Merritt Hawkins' 2010 Physician Inpatient/ Outpatient Revenue Survey, contact Jeremy Robinson, Northeast Senior Marketing Consultant, at 800 -306-1330 or Jeremy.Robinson@MerrittHawkins.com.

David B. McDermott, M.D., President, MMA

President's Corner

Spring has come to Maine after a milder than normal winter. It is great to have the trees full again. We are looking forward to a summer filled with enjoyable times with our families and our friends. As physicians practicing in Maine, we have much for which to be thankful.

The legislature faced some very tough decisions as they worked to close a 348 million dollar hole in the state budget. Yet, they were able to preserve from cuts the increase in the Medicaid fee schedule that went into effect on March 1st. This brings our MaineCare reimbursement now to 70% of Medicare reimbursement, closer than ever to our goal of parity.

At the same time we still have to struggle on a near-monthly basis in Washington to address the Medicare SGR fix and the ramifications of Congress's failure to address this failed mechanism for physician reimbursement. It seems that every month we kick the can just a few feet farther down the road on this cyclical journey. It is time for this to change. Please take a few minutes after you read this to call or write to both Senators Snowe and Collins to let them know how the failure of the Senate to provide a lasting relief from the SGR process affects your patients and your practice. They have the power to effect lasting change with this problem, but they won't unless they hear from physicians and patients about the need for this to be resolved.

Regarding the internal workings of MMA, I am very pleased with the quick adoption of technology by each of our committees. In particular, I have joined many committee meetings that my schedule would not otherwise allow through the Webex connection we now have. If travel commitments kept you from joining your fellow physicians in the work of our committees (such as the Committee on Public Health, the ad-hoc Committee on Technology, the Committee on Physician Quality, the Membership and Member Benefits Committee, the Legislative Committee, or other committees of the MMA), please consider using this technology to join us from the comfort of your home or office. All you need is a broadband connection for your computer and/or a telephone line. If your computer has a web cam, we will be able to see you at the meeting, but this is not a requirement for participation. I want to thank the staff members at MMA who are diligently working to learn how to maximize the use of this technology to benefit our members.

We continue to work on the development of social networking with peers through LinkedIn® (look for the group Maine Medical Association) and through the development of our beta-website for communications at www.mymainemed.com. I thank the members of our technology committee for their dedication to building this web site and making it effective for our members to connect with one another. This does require a registration process which is simple to use, but once registered on the site, you can connect with peers from around the state. Over the next year or so, we are going to be looking at the format for our primary web site and seeing how we might integrate the static information in our current site with the dynamic nature of web 2.0. If you are interested in helping to move these efforts forward, email me!

As I close this column, I want to draw your attention to the articles in this newsletter about our Annual Session in September. To be held again in scenic Bar Harbor, this year's educational topics focus on transitions at different life stages and promise to be informative not only for physicians, but for anyone interested in life and its stages. Plan now to join us from September 10-12th for this 157th Session of MMA.

Something on your mind? Have a thought you want to share with the leadership of your MMA? Email me at president@mainemed.com. I look forward to hearing from you.

From the State Epidemiologist

By Stephen D. Sears, M.D., M.P.H., State Epidemiologist, Maine Center for Disease Control and Prevention

Lyme Disease

Lyme disease is the most common vector-borne disease in Maine and the second most commonly reported reportable infectious disease in Maine. Ticks are already active, and we expect the number of Lyme disease cases to increase as the weather continues to get warmer. May is Lyme Disease Awareness Month in Maine.

Lyme disease is a bacterial infection that is carried by Ixodes scapularis (the deer tick). Cases have increased each year in Maine, and occur in all 16 counties. Lyme disease is most common among school age children and middle age adults, and most infections occur during the summer months.

Lyme disease is a reportable condition in the state of Maine. We request that all diagnosed erythema migrans rashes be reported to the state, as well as all positive lab diagnoses. Preferred laboratory testing is a two tier method, with an Enzyme ImmunoAssay (EIA) or Immuno Fluorescent Antibody (IFA) test followed by Western Blot. Cases can be reported by fax at 1-800-293-7534 or by phone at 1-800-821-5821.

Resources:

- IDSA treatment guidelines available at http://www.journals.uchicago.edu/doi/abs/10.1086/508667
- Case report form available on web http://www.maine.gov/dhhs/boh/ddc/epi/vector-borne/lyme/index.shtml#resourcephysicians
- "Tick-Borne Diseases in Maine: A Physicians Reference Manual" has been sent out and is available online at http://www.maine.gov/dhhs/boh/ddc/epi/vector-borne/index.shtml under Resources. If you did not receive a copy and would like one – you may request through disease.reporting@maine.gov

Recent MMA Events

On May 19 and 20, MMA hosted two very successful events. The first was the 19th Annual Practice Education Seminar, held at the Augusta Civic Center with nearly one hundred attendees. The theme of this year's seminar was, "What is expected of physicians in the new paradigm?" David Howes, M.D., President of Martin's Point Health Care, was the keynote speaker. His PowerPoint presentation is available at www.mainemed.com (look under the Spotlight section at the bottom of the home page).

On May 20th, MMA hosted a Public Health Forum on Climate Change and Human Health for Clinicians in Portland. Keynoting the program were Paul A. Mayewski, PhD, Explorer, Director & Professor, The Climate Change Institute, University of Maine and Paul R. Epstein, M.D., M.P.H., Associate Director, Center for Health and Global Environment, Harvard Medical School.

David Howes, M.D., Keynote Speaker at the Annual Practice Education Seminar.

Paul A. Mayewski, Ph.D., Keynote Speaker at the Public Health Forum on Climate Change and Human Health for Clinicians.

Upcoming at MMA

JUNE 2	2:00pm – 5:00pm	MMA Executive Committee
	2:00pm – 3:30pm	QC Executive Committee
	3:30pm – 5:00pm	QC Behavioral Health Committee
JUNE 4	9:00am – noon	First Friday Educational Presentation
JUNE 7	4:00pm – 6:00pm	Academic Detailing Work Group
JUNE 8	1:00pm – 4:00pm	Lifeflight Board Meeting
JUNE 9	4:00pm – 6:00pm	Public Health Committee
JUNE 10	1:00pm – 3:00pm	OSC HIT Steering Committee
JUNE 16	9:00am – 11:00am	Patient Centered Medical Home, Conveners
	11:00am – 1:00pm	Patient Centered Medical Home, Working Group
	1:00pm – 4:00pm	Aligning Forces for Quality, Patient Family Leadership Team
JUNE 17	8:30am – 4:00pm	Pathways to Excellence (Maine Health Management Coalition)
	6:00pm – 9:00pm	Maine Association of Psychiatric Physicians
JUNE 22	2:00pm – 4:00pm	Consumer Education Leadership Team
JUNE 23	4:30pm – 8:00pm	Bingham Foundation
JULY 7	1:00pm – 2:00pm	Aligning Forces for Quality, Executive Leadership Team
	2:00pm – 5:00pm	Quality Counts Board Meeting
JULY 8	1:00pm – 3:00pm	OSC HIT Steering Committee
JULY 12	4:00pm – 6:00pm	Academic Detailing Work Group
	5:30pm – 8:00pm	Medical Professionals Health Program Committee
JULY 21	9:00am – 11:00am	Coalition to Advance Primary Care
	11:00am – 1:00pm	Patient Centered Medical Home, Working Group
	1:00pm – 4:00pm	Aligning Forces for Quality, Patient Family Leadership Team
JULY 27	2:00pm – 4:00pm	Consumer Education Leadership Team
	2:00pm – 4:00pm	AF4Q – Pressure Ulcer Project
JULY 27	6:00pm – 9:00pm	ME Chapter American Academy of Pediatrics
JULY 28	2:00pm – 5:00pm	MMA Executive Committee (at Dr. McDermott's home in Dover-Foxcroft)
AUGUST 2	4:00pm – 6:00pm	Academic Detailing Work Group

Upcoming Specialty Society Meetings

JUNE 4-6, 2010 — Colony Hotel – Kennebunkport, ME

Maine Chapter of American College of Surgeons
2010 Annual Scientific Meeting
Contact: Parker Roberts, MD, FACS 207-761-6642

JUNE 24, 2010 — Cabbage Island, ME

Maine Chapter of the American College of Emergency Physicians
Clam and Lobster Bake
Contact: Anna Bragdon 207-441-5989 or maineacep@roadrunner.com

SEPTEMBER 10 - 12, 2010 — Harborside Hotel & Marina – Bar Harbor, ME

The following Specialty Societies will be holding meetings in conjunction with MMA's Annual Session taking place at the Harborside Hotel & Marina in Bar Harbor, Maine:

Maine Society of Orthopedic Surgeons (Sept. 11)
MMA Contact: Warene Eldridge 207-622-3374 ext: 227 or weldridge@mainemed.com

Maine Society of Anesthesiologists (Sept. 11)
Contact: Anna Bragdon 207-441-5989 or msainfo@roadrunner.com

SEPTEMBER 24, 2010 — Harborside Hotel & Marina – Bar Harbor, ME

Maine Society of Eye Physicians and Surgeons Fall Business Meeting
(To be held in conjunction with the 9th Annual Downeast Ophthalmology Symposium)
MMA Contact: Shirley Goggin 207-445-2260 or sgoggin@mainemed.com

SEPTEMBER 24 - 26, 2010 — Harborside Hotel & Marina – Bar Harbor, ME

9th Annual Downeast Ophthalmology Symposium
(Presented by the Maine Society of Eye Physicians and Surgeons)
MMA Contact: Shirley Goggin 207-445-2260 or sgoggin@mainemed.com

OCTOBER 8-10, 2010 — Harborside Hotel & Marina – Bar Harbor, ME

ACOG District 1 Meeting
MMA Contact: Diane McMahon 207-622-3374 ext: 216 or dmcmahon@mainemed.com

OCTOBER 15-17, 2010 — Jordan Grand Hotel at Sunday River – Bethel, ME

Maine Chapter of the American College of Physicians Annual Scientific Meeting
MMA Contact: Warene Eldridge 207-622-3374 ext: 227 or weldridge@mainemed.com

MMA wants to hear from you!

Issues or concerns you would like to see addressed by the MMA:

_____

_____

_____

Comments / feedback on what MMA is doing:

_____

_____

_____

Please provide your name and telephone number or e-mail address so that we may contact you if clarification or further information is needed.

Telephone:_____

E mail:_____

Return to MMA via fax at 207-622-3332.

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Thanks to Sustaining Members

Thank you to the following individuals and practices who have shown their support for the MMA's long-term growth by renewing at an additional sustaining membership level.

Paulo Antunes, MD

Mark Lena, MD

CMMC – Emergency Department

Gordon Smith, MMA EVP

Notes from the EVP

The Maine Medical Association is a very busy place as summer approaches. A full schedule of specialty meetings, educational presentations and committee work would be plenty, but the acute need to fix the Medicare payment formula (SGR) once and for all demands a fair amount of our time as well. And I am proud to say that MMA members call regularly looking for assistance. So while advocacy remains MMA's most visible activity, the day to day work of assisting the members, what my predecessor and mentor Frank Stred would call "member fulfillment," is perhaps our most satisfying work. And it goes without saying that members assisted in some way by the Association become very loyal members. This type of assistance is, no doubt, a factor in MMA presently enjoying its strongest membership (1912 active members and 3348 overall).

As the current date for the Medicare cut is May 31, 2010, by the time you read this article, Congress will have taken one of these actions: 1) further delayed the cut, 2) permanently repealed the SGR or, 3) failed to act and let the cut stand.

The 3rd choice would be devastating to the Medicare patients of Maine, which represent 17% of Mainers, and to military families utilizing Tri-Care. Because of geographic disparities, the cut in Maine would be higher than the average reduction nationally – 22.5% in Cumberland and York counties and 23.5% in the rest of the state. Needless to say, a reduction of this magnitude would harm access in Maine and be a serious setback to the many initiatives in Maine aimed at improving both quality and access. I hope you took the time to communicate with Senators Snowe and Collins about the SGR issue. I certainly hope the SGR problem has been fixed by Congress taking the second option. But I am not holding my breath.

One of our primary activities over the next few months will be to inform our members of the details of the federal health care reform bill, emphasizing the implications for Maine. We began this process at the Annual Practice Education Seminar last month.

We also continue to put a lot of well-placed effort into the Medical Professionals Health Program, to the transition of the Coding Center and to the popular peer review program. The peer review program is getting a lot of use currently and with help from the Office of Rural Health and Primary Care of the Maine CDC, there is a plan to significantly expand the program.

Finally, Dr. McDermott and the voluntary leaders of MMA have been exceptionally busy these last few months, providing first class governance and assistance in our advocacy. They are a wonderful group to work with.

I hope to see many of you at the 157th Annual Session, September 10-12, in Bar Harbor. Dr. Linder and her program planning committee have, once again, done an outstanding job. The partnership with the Jackson Laboratory for CME will again be a benefit.

As always, if I can ever be of assistance to you or if you would like to share any thoughts you have regarding MMA and its work, don't hesitate to give me a call at 622-3374 ext. 212 or shoot me an e-mail to gsmith@mainemed.com.

DEA to Remove E-prescribing Ban on Controlled Substances

You may soon be able to use your computer to prescribe Schedule II-V drugs

The Drug Enforcement Administration (DEA) issued an interim final rule in the March 31 *Federal Register* (at **http://edocket.access.gpo.gov/2010/pdf/2010-6687.pdf**) to allow physicians to issue paperless prescriptions for controlled substances. The rule has provisions to maintain safeguards while reducing errors.

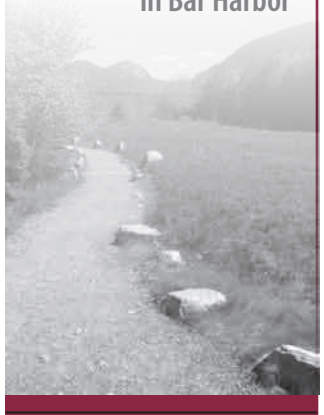
The effective date of the new rule will be June 1. However, the rule is currently under Congressional review and the DEA is seeking public comment on some issues through June 1. So, the effective date could change or the rule could even be terminated. According to DEA estimates, more than 10 percent of all prescriptions are written for Schedule II-V drugs.

The federal Controlled Substances Act currently only allows controlled substances to be dispensed pursuant to a written prescription and sometimes via oral prescription.

Maine Medicine Weekly Update will keep you updated on this issue.

SAVE THE DATE

157th MMA
Annual Session
September 10th -12th
in Bar Harbor



Lisa M. Letourneau, MD, MPH

Quality Counts *by Lisa M. Letourneau, MD, MPH, Executive Director, Quality Counts*

***Quality Counts* Working to Support Provider Quality Improvement Efforts**

Quality Counts, in partnership with the Maine Quality Forum and the Maine Health Management Coalition, helps to lead the Robert Wood Johnson Foundation's "Aligning Forces for Quality" (Af4Q) initiative in Maine. In past issues of *Maine Medicine*, we have highlighted two of the three major areas of focus for Af4Q – i.e. performance measurement / public reporting of healthcare quality data, and engaging consumers on using quality data. In this issue, we summarize the third major area of Af4Q focus – quality improvement assistance for providers. Under the Af4Q initiative, *Quality Counts* (QC) is working to ensure that providers have access to assistance with improving quality, including assistance for both ambulatory providers and hospitals.

Ambulatory Providers: QC is working to promote a sustainable system of quality improvement (QI) support for primary care providers in areas such as improving chronic illness care, participating in quality reporting, or moving to a medical home model. QC is working to ensure that QI "coaches", or trained improvement QI staff, are available to work directly with any primary care practice seeking assistance, and to build a learning community to share QI best practice information with providers across the state.

Within the current structure and affiliations of Maine primary care practices, we estimate that 60-70% of primary care practices currently have access to individuals with QI experience who are available to work with and support practices in their improvement efforts, usually through their local Physician Hospital Organization (PHO), hospital, or medical group. We are working to support those existing systems, and to identify and fill gaps for practices without access to such QI assistance. For the remaining 30-40% of practices, QC is working to connect them with existing groups that can provide QI assistance, and/or find resources to help these practices gain access to QI staff.

In addition, QC is working to develop a statewide "learning community" of providers and practice staff that provides access to QI tools and resources, identifies best practices across the state and nationally, and helps to connect providers with other practices working on QI issues. QC offers a range of ways for practices to access QI tools and resources, including information posted on our website; a quarterly e-newsletter summarizing best practices and latest developments; and beginning in June, monthly webinars on QI-related issues. These QC webinars will be offered on the first Tuesday and Thursday of each month from noon-1PM, and will initially be focused on the new reporting requirements of the 2010-11 Pathways to Excellence program. Physicians and practice staff can register for QC learning community webinars under the "Conferences and Trainings" tab of the QC website at www.mainequalitycounts.org.

Hospitals: In addition to supporting ambulatory QI efforts, QC is also working to provide support for hospital QI efforts in several areas:

- Maine Pressure Ulcer Prevention Collaborative is a learning collaborative for teams from up to 10 hospitals and their long term care (LTC) partners to help prevent pressure ulcers in inpatient and LTC settings.
- National learning collaboratives are being offered by the Robert Wood Johnson Foundation in several areas:
  - Transforming Care at the Bedside (TCAB) provides structured improvement methods and education geared at helping nurses take a leadership role in improving hospital care. Currently four Maine hospitals, SMMC, Redington Fairview, EMMC, and St. Mary's Regional Medical Center are participating in the national TCAB collaborative.
  - Language Quality Improvement provides an opportunity for hospitals to improve their language services and cultural competency to improve care for people of diverse language backgrounds, Mercy Hospital and CMMC are currently participating in this national Af4Q learning collaborative.
  - Reducing re-admissions will provide an opportunity for Maine hospitals to improve care and reduce readmissions for patients admitted with heart failure, beginning in fall 2010.
  - Improving Emergency Department (ED) throughput will provide an opportunity for Maine hospitals to examine their ED workflows, and improve efficiencies to reduce ED length of stay and quality of care. This effort will also begin in fall 2010.

For more information these or other *Quality Counts* activities, visit the QC website at www.mainequalitycounts.org, or contact Dr. Lisa Letourneau at Letourneau.lisa@mainequalitycounts.org, or tel. 415.4043.

Visit the MMA website at www.mainemed.com

Restrictive Covenant Upheld in Androscoggin County Superior Court Case

A restrictive covenant in physician employment agreements was upheld in a Maine Superior Court case in May involving three physicians who left their employment at St. Mary's Regional Medical Center to accept positions at Central Maine Medical Center. The physicians were ordered to pay the Sisters of Charity Health Systems Inc. (owner of St. Mary's Regional Medical Center) $100,000 each. Each of the primary care physicians had signed contracts in 2004 prohibiting them from practicing medicine within a 25-mile radius of the 99 Campus Avenue facility of St. Mary's for a two-year period after leaving employment. A liquidated damages clause in the contracts provided the option of paying $100,000 to the medical center rather than waiting the prescribed two-year period. Each of the physicians began practicing with CMMC during the two-year period and did not pay any of the liquidated damages amount.

According to the court's decision, the physicians appeared to have taken with them 1,374 of the 4,800 patients at their former office.

The physicians defended the case on the grounds that the restrictive covenant clauses were against public policy. Their position undoubtedly was based upon AMA Code of Medical Ethics Opinion 9.02, *Restrictive Covenants and the Practice of Medicine.* This opinion frowns upon restrictive covenants because they limit the supply of medical services available to patients. You can find Opinion 9.02 on the web at: https://ssl3.ama-assn.org/apps/ecomm/PolicyFinderForm.pl?site=www.ama-assn.org&uri=/ama1/pub/upload/mm/PolicyFinder/policyfiles/HnE/E-9.02.HTM. However, Superior Court Justice Thomas Delahanty II noted that medicine and health care today were big businesses and that governing corporate entities could act to protect their continued viability to provide for the overall well-being of its patient base and the community. He concluded that the restrictions were "reasonable."

During the trial, it was revealed that prior to employment, CMMC has agreed to pay any damages the physicians might incur resulting from the lawsuit.

(Excerpted from article by Christopher Williams in the *Lewiston Sun Journal,* May 7)

Public Health Spotlight

Kellie Miller, Director of Public Health Policy, MMA

Measurably Improving Health One Step at a Time in Maine

Chronic disease and disabilities have reached epidemic proportions in the United States and here in Maine. Scientific evidence increasingly links toxic chemicals in the products we use in our homes, schools, and workplaces to the increases of disease and disability we are experiencing.

The human cost to families and communities of cancer, autism, birth defects, Parkinson's disease and the many other diseases and disabilities linked to exposure to environmental contaminants is immeasurable. The four environmentally-related childhood diseases cost the Maine economy more than $380 million a year (lead poisoning, asthma, cancer, neurobehavorial) (figures from the report by Mary E. Davis, PhD, School of Economics, University of Maine, *An Economic Cost Assessment of Environmentally-Related Childhood Diseases in Maine*)

Also, climate change is affecting the lives and well-being of Maine citizens and may increasingly create health challenges for the state. Climate change is creating conditions that are adding additional stress to existing health problems, including allergies and asthma; and in addition, may be contributing to the growth of existing diseases in the state, as seen in the increase of Lyme disease and the emergence of Eastern Equine Encephalitis. According to the Maine CDC's surveillance tracking system, reported cases of Lyme disease have grown exponentially in Maine over the past two decades, from no cases being reported in 1988, fewer than 100 cases in 2000, 250 in 2006 and 970 in 2009. For more information on physician resources go to: http://www.maine.gov/dhhs/boh/ddc/epi/vector-borne/lyme/#resourcephysicians

To continually justify why the MMA's Public Health Committee is committing staff, energy, and resources to bridge clinical medicine and environmental public health, one only need to review the facts and issues. Briefly, I will attempt to recap those in this article.

One – What MMA's environmental public health activities have been recently:

We are working to strengthen the chemical management system that better protects human and environmental health to reform the Toxic Substances Control Act (TSCA), through the recently introduced federal legislation, urging our Maine Senators, Senator Susan Collins and Senator Olympia Snowe to support it. The current federal law that should protect citizens is badly broken. TSCA was enacted in 1976 and has only been used to require testing of 200 of the more than 80,000 chemicals in use. Only five chemicals have been regulated under the law. For more information on the legislation and to urge our Senators support, go to: http://ehsc.e-actionmax.com/takeaction.asp?aaid=421 (www.preventharm.org)

We collaborated with the Natural Resources Council of Maine, the Physicians for Social Responsibility, and other organizations to assist in the passage of the Kid Safe Product Act of 2008 with this year culminating in the successful passage of legislation imposing fees on chemical companies to pay for DEP's review of priority chemicals, as well as assisted in the passage of legislation to phase-out the use of polybrominated diphenyl ethers ("deca" mixture) in shipping pallets.

We contributed to the Maine Department of Environmental Protection's recently published Climate Change Adaptation Recommendations. For the full report, go to http://www.maine.gov/dep/oc/adapt/.

Two - Our Environmental Public Health goals are:

- To continue to provide or to make our members aware of continuing medical education (CME) opportunities on environmental public health issues. MMA's Public Health Committee recently hosted the **Climate Change and Human Health Forum** to assist health professionals team up with scientists to discuss the health impacts of climate change. Health professionals heard from leading international experts on critical health impacts facing the citizens of Maine and discussed strengthening the link between clinical medicine and environmental public health. Also, the Maine Chapter/Physicians for Social Responsibility has three opportunities for physicians to learn more about the chemicals that Maine children and families are exposed to every day, as well as the impact of environmental toxins on pediatric health. Their free online environmental health continuing education course (1.5 CME hours), the Pediatric Environmental Health Toolkit and Toolkit Training opportunity can all be accessed at their website at: http://www.psr.org/resources/pediatric-toolkit.html.
- To continue to support public policy for safer chemicals to protect public health and the environment by beginning the process of taking action on phasing out and reducing our exposure to the most dangerous chemicals – i.e. persistent, bioaccumulative toxic chemicals that can cause serious health problems.

Three – Join MMA in our work to *measurably improve health one step at a time*

The MMA Public Health Committee meets six times a year and we encourage you to participate, as we continue to address the interrelationship between human health and the environment. Environmental public health has been described as the art and science of protecting against environmental factors that may adversely affect human health. Committee meetings are scheduled for June 9th, August 11th, October 13th, and December 8th and are scheduled at 4:00 pm – 6:00 pm at the Maine Medical Association, Manchester, Maine. In addition, the Public Health Committee will host a Gubernatorial Forum on Public Health Issues at the Association's Annual Session on Sunday morning, September 12th in Bar Harbor. Contact Kellie Slate Miller, staff at 207-622-3374, ext. 229 or kmiller@mainemed.com for more information and to join the committee.

Looking for E-Prescribing Info?

These online publications from the American Medical Association (AMA) and the Centers for Medicare and Medicaid Services (CMS) are a good place to start.

1. A Clinician's Guide to Electronic Prescribing (AMA)
   www.ama-assn.org/ama1/pub/upload/mm/472/electronic-e-prescribing.pdf
2. Medicare's Practical Guide to the E-Prescribing Incentive Program (CMS)
   www.cms.hhs.gov/partnerships/downloads/11399.pdf

Physicians may earn a 2-percent bonus on all 2009 Part B charges if they successfully meet Medicare's electronic prescribing reporting requirements.

SAVE THE DATES: MMA First Fridays Events

October 1, 2010	***First Fridays*: Medical Records (Everything You Want to Know)** ***Maine Medical Association*** 9:00 a.m. – 12:00 p.m.
November 5, 2010	***First Fridays*: Compliance Seminar** ***Maine Medical Association*** 9:00 a.m. – 12:00 p.m.
December 3, 2010	***First Fridays*: Medical Legal Seminar Consent/Capacity Documentation)** ***Maine Medical Association*** 9:00 a.m. – 12:00 p.m.

Promoting Use of Health IT: Why Be a Meaningful User

By David Blumenthal, M.D., M.P.P., National Coordinator for Health Information Technology, U.S. Department of Health and Human Services

As I write, physicians throughout the U.S. are deciding whether to become meaningful users of electronic health records by 2011 when Medicare and Medicaid start making extra payments to meaningful users. Almost 200,000 doctors already have adopted EHRs and are using them at a basic or sophisticated level. Many other doctors, however, remain undecided.

I don't want to minimize the obstacles. When I started using an EHR, I found it challenging. I often longed for a dose of my old prescription pad (confession – I cheated once in a while). I chafed at reconciling medication lists, updating problem lists, scanning through seemingly endless consultant notes. (In the past, many wouldn't have been available – lost somewhere in the paper world.) My visits were longer and more complicated. Every time I turned on the computer, it seemed, I had to learn something new.

But I am glad I did it, as are 90 percent of all physicians who adopt an EHR, according to a scientific survey published in the *New England Journal of Medicine*. My EHR made me a better doctor. I *really* knew what was going on with my patients. I could answer their questions better and more accurately. I made better decisions. I felt more in control.

Physicians don't go into medicine because it's easy. They go through grueling training. They face tough personal and clinical decisions throughout their professional lives. They constantly have to grow and learn to keep up with the science and practice of medicine. That's what makes them the professionals they are. That's what earns their patients' and colleagues' respect and admiration. That's what gets them up in the morning knowing there's nothing else they would rather be doing.

The EHR is just another of the transitions that physicians are constantly called upon to make in the interest of their patients, their professional competence, and their professional self-esteem. Its advent is inevitable – no more avoidable than the arrival of the stethoscope in the early 1800s or anti-sepsis in the mid 1800s (both of which some physicians furiously resisted) or the ICU in the mid-1900s. Positive change is often disruptive, but it is irresistible nevertheless. In 10 years, paper records will be the exception.

Still, some physicians may be tempted to put off the inevitable, trying to postpone the disruption and expense. Why not wait five or six years?

For several reasons. First, the sooner physicians start using an EHR, the sooner they and their patients will realize its benefits – the ability to share patient data with colleagues and patients, the ability to retrieve old data effortlessly, the ability to access patient records remotely from home, or even from a medical meeting.

Second, right now, the federal government is making a once in a lifetime, never to be repeated, offer: It will help physicians pay for the transition with up to $44,000 in extra fees from Medicare, or $63,750 from Medicaid. Physicians can take the leap now with financial and technical help from the government. Or they can do it on their own (or face a financial penalty) in five years.

Third, anyone who is building a practice, and wanting to recruit young, talented physicians needs to confront the reality that the next generation will expect and demand their own medical home have a modern information system. I know this from personal experience. With two children in medical school, and a daughter-in-law who is an intern, I know young physicians will never settle for paper records.

To me the choice is clear. Physicians' professional, clinical and financial interests all point in the same direction. Become a part of the future. Become a meaningful user of an electronic health record.

A Paradigm Shift?

Now that a federal health care reform bill has finally passed, MMA along with many other organizations will seek to inform members and their staffs of the impact of the law. The provisions in the bill play out over nearly a decade but it is a certainty that the Congress will not leave the law alone. We can expect changes every year, just as the original legislation establishing Medicaid and Medicare have been amended continually. Over the next ten years, there will be plenty of opportunity to modify its provisions based upon what is working well and what is failing. While most of the provisions enhancing coverage do not begin until 2014, several of the provisions impacting on health insurance took effect immediately. These include the elimination of clauses restricting coverage based upon "existing conditions," provisions allowing young adults to remain on their parent's policy until age 26 and providing funds to states to begin high-risk pools.

The mandate requiring persons to purchase health insurance or be financially penalized also begins in 2014. Many states have lined up to sue the federal government claiming that it has no right to require that citizens purchase a product such as commercial health insurance, but most constitutional scholars do not believe that such lawsuits will ultimately be successful.

During the period preceding the vote, the Congressional Budget Office stated that the new law would actually result in deficit reduction over the next ten years. Most observers were skeptical, and a new analysis shows that the deficit will increase during the decade by $115 billion, and this figure does not include the cost to fix the Medicare payment problem for physicians (cost today: about $230 to $250 billion). But the real question should be whether the opportunity to insure 32 million individuals justifies such spending.

Watch the pages of *Maine Medicine* to read about how the provisions of the bill play out. Will primary care benefit, as was designed? Will there be enough physicians to meet the demand for care from the 32 million persons newly insured? Will the preference for electronic medical records improve safety and flatten the cost curve, as it hoped? Stay tuned.

Subscribe to MMA's *Maine Medicine Weekly Update*

Each Monday, *Maine Medicine Weekly Update* keeps physicians and practice managers in the loop with breaking news – by fax or email only. It's a free member benefit – call 622-3374 to subscribe.

MMA'S Website Lists Statewide CME Programs

Looking for seminars to fulfill your continuing medical education (CME) requirements? The Maine Medical Association can help.

Our web site, **www.mainemed.com** has a page that provides a listing of upcoming CME-accredited programs. Information for each CME activity includes the name, speakers, date(s) location, and contact person for inquiries/registration. Most of the listings are from institutions/organizations that are accredited through the Maine Medical Association as Providers of Continuing Medical Education.

This is another way the Maine Medical Association is looking to serve you, our members, by providing a resource for CME needs. The listing can be found at **www.mainemed.com/cme**.

Organizations seeking to list their seminars on the MMA web site should contact Shirley Goggin at sgoggin@mainemed.com or call 207-445-2260.

Andrew MacLean, Esq.

Legislative Update

Legislative Update: 124th Maine Legislature Adjourns *Sine Die* April 12th; Attention Turns to Primary Election on June 8, 2010

The 124th Legislature adjourned its Second Regular Session in the late afternoon of Monday, April 12th after reaching bipartisan agreement on the F.Y. 2010-2011 supplemental budget, L.D. 1671, and a bond package more modest than that proposed by the Governor and advocated by majority Democrats in the legislature. All 186 seats in the legislature and the Blaine House are up for grabs this year and the primary contests among 4 Democratic and 7 Republican candidates for Governor, as well as for major party representatives for several legislative seats will be settled in the primary election on June 8, 2010. Just before the close of this year's session, the Governor and the legislature each created a task force to help Maine implement national health care reform. The MMA thanks Legislative Committee Chair Lisa Ryan, D.O., a Bridgton pediatrician, for her exceptional leadership of our advocacy efforts this year!

In late March, after many weeks of public hearings and work sessions, the Appropriations & Financial Affairs Committee reported out a unanimous supplemental budget proposal, L.D. 1671, for the FY 2010-2011 biennium that closed a budget gap of approximately $310 million. The gap was narrowed from an estimated $438 million in January by modest improvement in the State's financial situation and some additional federal stimulus funding. Most observers felt that the budget situation could have been much worse, particularly since the last biennial budget enacted in 2009 (L.D. 353) totaling $5.8 billion already reflected a reduction of $400 million from the previous biennial budget. This supplemental budget included net savings of approximately $31.8 million in DHHS programs, down from the Governor's original proposal of $91.5 million. The budget achieves approximately $13.4 million in savings through various hospital initiatives and the balance of the savings comes from across the health care, mental health, mental retardation and developmental disabilities, elder, public health, and pharmacy service areas. Governor Baldacci signed the budget bill on March 31, 2010 and it became effective immediately. You will find an overview of the supplemental budget as amended on the legislature's web site at: http://www.maine.gov/legis/ofpr/current_legislature/budget_summaries/2010-2011SupplementalBudgetasAmended.pdf.

The compromise bond package reduced the original $85 million by $40.7 million. The bond bill was L.D. 1826, *An Act to Authorize Bond Issues for Ratification by the Voters for the June 2010 Election and November 2010 Election*: http://www.mainelegislature.org/legis/bills/bills_124th/chappdfs/PUBLIC645.pdf.

While the national health care reform debate and the state budget were the dominant issues for the MMA since late 2009, the MMA Legislative Committee and staff were involved in the development of many bills, including those addressing universal childhood immunization (L.D. 1408), expedited partner therapy (L.D. 1617), prohibition of caps in health insurance coverage (L.D. 1620), substitution of anti-epileptic drugs (L.D. 1672), Lyme disease awareness and prevention (L.D. 1709), and medical marijuana (L.D. 1811) to name just a few. A comprehensive summary of all health care legislation tracked by the MMA for the two years of the 124th Legislature will be available later this summer.

Under the able management of Maureen Elwell, Legislative Assistant, the MMA carried out another successful *Doctor of the Day* Program during this session. Thanks to Moe's work and your volunteering, there were very few legislative days without physician coverage at the State House. Thanks to all physicians, physician assistants, and staff who helped with the MMA's advocacy activities during this session by participating in the weekly conference calls, communicating with legislators, testifying at public hearings or press conferences, or serving as *Doctor of the Day*.

Late in the session, the executive and legislative branches of Maine State government each acted in response to the national health care reform legislation. On April 22, 2010, Governor Baldacci issued Executive Order 12 FY 10/11, *An Order Implementing National Health Reform in Maine*: http://www.maine.gov/tools/whatsnew/index.php?topic=Gov_Executive_Orders&id=96404&v=Article. Previously, on April 7th, the legislature had passed H.P. 1262, *Joint Order Establishing a Joint Select Committee on Health Care Reform Opportunities and Implementation*: http://www.mainelegislature.org/legis/bills/bills_124th/billpdfs/HP126201.pdf. The first meeting of the legislature's Joint Select Committee is scheduled for May 20th. The MMA will monitor the activities of both of these groups as Maine implements the national health reform plan.

Finally, the MMA encourages you to get to know the candidates for your local House and Senate seats, as well as the gubernatorial candidates. You can find all of the declared candidates on the Secretary of State's web site at: http://www.maine.gov/sos/cec/elec/upcoming.html.

During the legislative session, the MMA staff provides links to bills for review and comment, updates on the legislature's work, and calls-to-action through our weekly electronic newsletter, *Maine Medicine Weekly Update*.

To find more information about the MMA's advocacy activities, visit the Legislative & Regulatory Advocacy section of the MMA web site, www.mainemed.com. You will find more information about the Maine Legislature, including schedules, committee assignments, legislator contact information, audio coverage of legislative work, and newly enacted laws on the web at: http://maine.gov/legis.

The MMA welcomes your participation in our legislative advocacy activities. For more information, please contact Andrew MacLean, Deputy Executive Vice President, at amaclean@mainemed.com.

District I ACOG Honors John B. Makin, Jr., MD

By Ronald T. Burkman, Jr., MD, District I Chair

Congratulations to John B. Makin, Jr., MD, on winning an ACOG Outstanding District Service Award. Despite being a solo practitioner in rural Maine, Dr. Makin has been actively involved in county, state, and national medical organizations for more than 35 years. In his capacity as chair of the District I Legislative Committee and President of the Maine Medical Association, he championed issues that improved both the care of women in Maine and the practitioners providing care. For example, Maine now has an effective screening panel for medical liability cases which, if it rules favorably for the defendant, discourages cases from proceeding to trial. Dr. Makin has also been active for many years in the American Medical Association and currently serves as one of two delegates from the Maine Medical Association to the AMA House of Delegates.

Within District I, Dr. Makin has served as treasurer, Legislative Committee chair, and Maine Section chair. Nationally, he has been vice chair of the Finance Committee and the Compensation Committee, chair of the Audit Committee, and a member of the Committee on Nominations. Through his efforts, District I has remained stable financially despite recent difficult times. While this has required a degree of fiscal conservatism, important and effective programs have continued to be supported. Dr. Makin's advice is sought in these matters because of his wisdom, his balanced view of ACOG's mission and objectives, and his good old "Yankee" pragmatism.

District I has always respected his counsel and advice on many of the thorny issues affecting our members. Dr. Makin, much like country music legend Willie Nelson, is among "the last of the breed" (though in Dr. Makin's case, we mean a solo practitioner). He has not only provided exceptional care to his patients, but has also served the common good through quiet, effective, and selfless service.

Dr. Makin would be the last person to seek any recognition and will probably be a bit embarrassed to be honored by our district. However, this modesty and humility, particularly in the presence of so many accomplishments on behalf of our district, is one more reason to honor him with this award.

Editor's note: MMA congratulates Dr. Makin on this significant recognition from his specialty society. MMA and the AMA have also benefited significantly from his volunteerism.

MaineCare Announces New PA Process for Atypical Antipsychotics

Recent studies show that atypical antipsychotic medications are frequently being prescribed inappropriately. For example, one study noted that of 279,778 patients who received at least one prescription of an antipsychotic in 2007, 60.2% had no record of a diagnosis for an FDA approved indication (http://jama.ama-assn.org/cgi/content/short/303/16/1582). Manufacturers of atypical antipsychotics have been fined large amounts for fraudulent marketing of these products, behavior which has contributed to high rates of inappropriate use. The off label use of these drugs have made them the most costly medication class to MaineCare.

Examples of inappropriate use include prescribing these medications for insomnia, dementia related psychosis, attention deficit disorder, and anxiety disorders. Not only are they expensive, atypical antipsychotics have side effects that include weight gain, diabetes, lipid abnormalities, and potentially irreversible movement disorders such as tardive dyskinesia, amongst others.

Effective July 1, 2010, MaineCare will introduce a prior authorization process for atypical antipsychotics which will apply to all non-psychiatric prescribers. The prior authorization process will require that use of this medication class be in accordance with FDA approval or literature-supported evidence-based best practices. Examples of appropriate utilization includes the treatment of schizophrenia, bipolar disorder, agitation related to autism, and severe behavioral dyscontrol with risk of imminent need to access emergency services such as the emergency room, crisis services, or an inpatient psychiatric facility.

Atypical antipsychotics are also being increasingly utilized in combination with antidepressants to treat patients with major depression. This use will be permitted upon demonstration that a patient has previously tried two distinct antidepressants from two distinct classes (SSRIs, SNRIs, TCAs, bupropion).

This policy will foster appropriate use of these medications resulting in cost savings and improved patient care without imposing an undue burden upon patients and prescribers.

For those who may be interested in what MaineCare may be implementing for cost saving or safety measures, you may attend the Drug Utilization Review Committee meetings. These meetings are held 9 times a year, the second Tuesday of the month, excluding December, July and August from 6-8 p.m. The location is 442 Civic Center Drive at the Office of MaineCare Services.

If you have questions you may contact Goold Health Systems at 1-888-445-0497 or Jennifer Palow, Pharmacy Division Manager at Jennifer.Palow@maine.gov.

Medical Mutual Insurance Company of Maine Risk Management Practice Tip: *Competency Assessment: Physician Office Practice*

Physician office practice staff is viewed by patients as an extension of the physician. When delegated directly by the physician or through a job description, performance is interpreted as a direct extension of the physician's medical practice. A number of medical malpractice cases have found the physician responsible for the negligent performance of both clinical and non clinical staff members during the performance of their regular duties when a patient injury has occurred. Assuring staff competence in all areas of their job performance is an important element of the physician office practice's risk management program.

Steps to Evaluate Staff Competence

The physician office practice should establish a process by which staff competence may be evaluated.

- Hiring Process
- Orientation Process
- Competence Assessment
- Annual Performance Appraisal
- Continuing Education/On Site Training
- Ongoing Documentation/Record Maintenance

The hiring process should include verification of the individual's training, education and experience, licensure and/or certifications if applicable in addition to current pertinent reference interviews. A criminal background check and previous professional liability claim review may also be appropriate depending on the position to be filled. The Office of Inspector General (OIG) List of Excluded Individuals/Entities should be checked to assure the applicant has not been excluded for reimbursement from Medicare and Medicaid.

The new office staff member should complete a general physician office orientation program and receive an orientation specific to their job description. The length of the orientation should be determined by the practice based on the complexity of the position to be filled and the new office staff member's previous training, education and experience. The staff member's performance and completion of the orientation process should be documented.

Specific staff competencies should be assessed in areas of high risk/high volume; high risk/low volume; and high visibility. The staff member's successful performance of selected competencies should be documented. Once completed, the competency assessment documentation becomes part of the employee file.

An annual performance appraisal should be completed based on the staff member's job description and any other required criteria established for office staff members that may be outlined in another office policy.

Participation in continuing education programs is another demonstration of a current or developing competence. Continuing education programs may be general knowledge, e.g., infection control or they may be specific to operating a new piece of equipment, e.g. new table top sterilizer. All staff participation in continuing education should be documented.

Documentation is the most important element in being able to establish, monitor, prove and improve staff competence. Generally documentation of staff competence is maintained in a section of the staff member's personnel file.

Resources:

ECRI, Risk Analysis: Managing Risks in Physician Practices
St. Anthony's, Physician Office Policies and Procedures, Second Edition.
Family Practice Management, A Tool for Training New Employees
Physician Insurers Association of America

Medical Mutual's "Practice Tips" are offered as reference information only and are not intended to establish practice standards or serve as legal advice. MMIC recommends you obtain a legal opinion from a qualified attorney for any specific application to your practice.

Dirigo *at a* Glance

Who benefits from the health care coverage payments?

- 71% goes to hospitals and doctors, paid at commercial rates
- 16% goes to pharmacies
- 13% goes to private insurance companies

Insurance company net underwriting gain on DirigoChoice: $18,048,330
National uninsured rate: 15.4% Maine uninsured rate : 9.6% (6th best in nation)

5 years:
January 2005 –
February 2010

1,205
small businesses

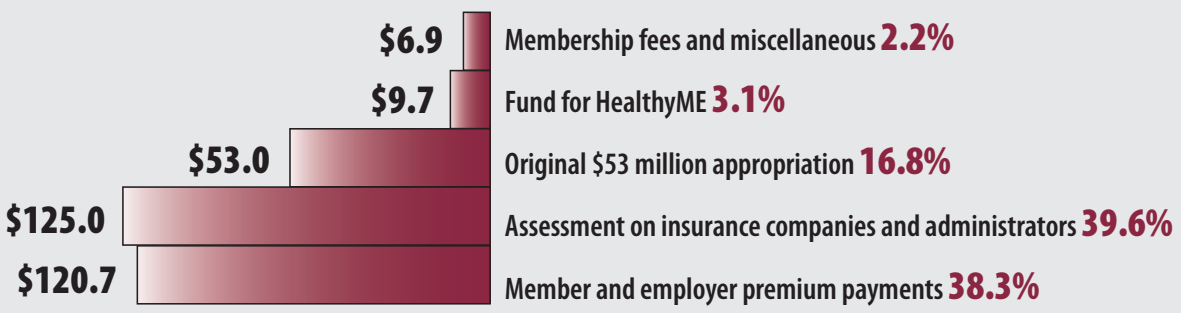
and

30,886
people covered

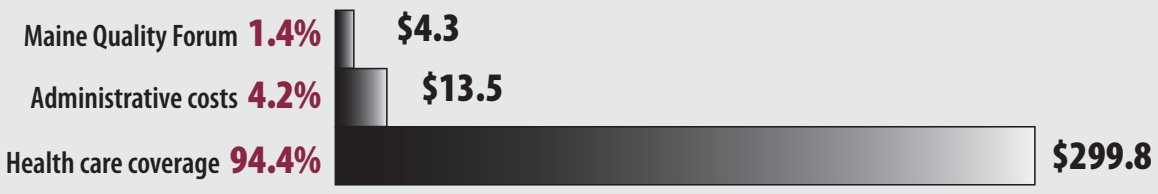
50%
of enrollees
have household
incomes below

$15,315
a year

Where did the money come from?



How was the money spent?



figures in millions – $ 2 million excess in expense vs. revenue due to timing of SOP revenue creating cash flow issues, resolved in P.L. 2009 Chapter 359. Revenue will balance expense by end of FY 2010.

POISON Help™
1-800-222-1222

Northern New England Poison Center

In Maine, New Hampshire & Vermont, the Northern New England Poison Center provides immediate treatment advice for poison emergencies. They also provide information about poisons and poison prevention, twenty-four hours a day, seven days a week.

Annual MMA Golf Tournament June 7, 2010

11:00 a.m. – 6:00 p.m.
Augusta Country Club
Manchester, Maine

Invite a Physician to Join MMA

Encourage your colleagues to become an MMA member and take advantage of the benefits of membership.

Contact Lisa in the MMA Membership Department at 622-3374 ext: 221 or email lmartin@mainemed.com.

Maine medicine
Maine Medical Association
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MMA/BOLIM

Chronic Pain Project Home Study

Treating Chronic Pain in Maine:

Improving Outcomes, Recognizing Adverse Effects of Medications, Preventing Drug-Related Deaths

Maine physicians and other clinicians struggle to treat chronic pain conditions effectively and compassionately. The task is particularly difficult for primary care providers working in rural areas, who do not have ready access to specialty consultation in chronic pain or addiction medicine. The issue of diversion is perplexing to professionals who have been trained to engage with patients in trusting and healing relationships. This CME offering undertakes to give clinicians useful guidance in both the treatment of chronic pain, including use of opioid medication, along with safeguards to ensure that diversion is kept to a minimum, and issues of addiction, when they co-occur with chronic pain, are recognized and addressed effectively. Due to the generosity of the Board of Licensure in Medicine, there is no cost associated with this course.

This monograph (available at mainemed.com) is estimated to require two hours to read. **The accompanying post-test must be submitted and successfully completed in order to obtain two Category I CME credits. The course will be available until October 1, 2010, after which it will be either updated or terminated.**

NOW available FREE
www.mainemed.com

SAVE THE DATE

157th MMA Annual Session

September 10th -12th 2010

Bar Harbor