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STATE OF MAINE
ONE HUNDRED AND THIRTY-FIRST LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES

TO: Senator Margaret Rotundo, Senate Chair
Representative Melanie Sachs, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator Joseph Baldacci, Senate Chair
Representative Michele Meyer, House Chair
Joint Standing Committee on Health and Human Services

DATE: March 13, 2024

SUBJECT: LD 2214, An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2024 and June 30, 2025

The Health and Human Services Committee is pleased to provide its recommendations on LD 2214, the 2024 supplemental budget bill. Pursuant to Joint Rule 304, the Joint Standing Committee on Health and Human Services met to review the supplemental budget initiatives pertaining to the agencies under our jurisdiction. All members of the Health and Human Services Committee were present for the votes or registered their votes in a timely fashion.

Committee votes on the initiatives proposed in the budget are included in the attached Green Sheet and votes on language sections are included in the attached Purple Sheet. The committee also voted to submit several additional initiatives and language for consideration, though not all received unanimous support. Unanimous votes with recommended changes to initiatives or language in the proposed budget are described first in this memorandum, followed divided reports. All divided reports are party lines votes. Votes are grouped by subject matter. At the end of this memorandum, the committee has also included further commentary regarding bills related to General Assistance.

UNANIMOUS VOTES

Child Care

Lines 17-18 (green sheet); (F-A-1703 and F-A-1704)
Lines 30-31 (green sheet); (F-A-7715 and F-A-7716)
Language Parts SS and TT

The committee is unanimous in its support for child care investments, and do not support the delay in the implementation proposed in the Governor’s supplemental budget. Public Law 2023, chapter 412, part VVV, and funding in Part A went into effect on October 25, 2023. To that end, the committee unanimously voted “OUT” on *Lines 17-18* and *Lines 30-31*. The committee was also unanimous in its votes on *Part SS* and *Part TT* to be consistent.

Part SS. The committee unanimously voted to replace Part SS with the following:

Part SS-1. Carrying balance fiscal year 2023-24; Department of Health and Human Services; Child Care Services. Notwithstanding any other provision of law, at the end of fiscal year 2023-24, the State Controller shall carry forward any remaining balance in the all other line category in the Department of Health and Human Services; Child Care Services program, General Fund to support the child care needs of those qualified applicants pursuant to Public Law 2023, Chapter 412, Part VVV, back to the effective date of the application for the program, until expended.

Part TT. The committee supports the Child Care Staff Scholarship Pilot Program and supports extending the length of the pilot. We recommend amending *Part TT* as follows:

Sec. TT-1. Department of Health and Human Services, Child Care Staff Scholarship Pilot Program. Maine will implement a ~~2-year~~3-year child care staff scholarship pilot beginning in state fiscal year 2024-25 capped at \$2.5 million per year. Staff who work in a licensed child care program in Maine are eligible to apply for a child care scholarship to help pay for their own child to attend a licensed child care program. The scholarship will be paid out to the program where the child attends. The pilot will be evaluated to inform recommendations on how to design an effective and efficient permanent program.

Medicare Savings Program

Lines 104-105 (green sheet); (F-A-7161)
Language part NN

Committee members oppose the Governor’s proposal to only partially implement the requirements of Public Law 2023, chapter 412, part EEEEE, which updated income eligibility for qualified Medicare beneficiaries (QMB) to not more than 185% of the federal poverty level and for qualified individuals to not more than 250% of the FPL. The Governor’s proposal would expand the Qualified Individuals (QI) program to 202% of the FPL effective July 1, 2024, and eliminate expanding the QMB program.

The committee voted unanimously to reject the partial implementation and associated de-appropriation of funds and to maintain the Medicare Saving Program as enacted in Public Law 2023, chapter 412, part EEEEE. While the votes are reflected as “IN-A” on *lines 104-105* and language *part NN* of the vote sheets, the committee voted unanimously to amend these items to maintain the MSP expansion. The amendments are as follows:

For *Lines 104-105*, the committee voted to accept the de-appropriation of funds for SFY24 only and maintain the appropriation of funds for SFY2025, so as to implement the Medicare Saving Program as required by Public Law 2023, chapter 412, part EEEEE, beginning July 1, 2024. We recognize that March 1, 2024 has already passed, and so the law should be amended to require

the expansion of eligibility to go into effect on July 1, 2024. Therefore, in *Part NN*, the committee voted to replace the language with the following, which provides for a delayed start date for implementation:

Sec. NN-1. 22 MRSA §3174-LLL sub-§2, as enacted by PL 2023, c. 412, Pt. EEEEE, §4 is amended to read:

2. Income eligibility. No later than ~~March 1, 2024~~, July 1, 2024, the department shall establish income disregards to determine eligibility so that a person with income that is no more than 185% of the federal poverty level is qualified as a qualified Medicare beneficiary and a person with income that is more than 185% and no more than 250% of the federal poverty level is qualified as a qualified individual.

Victims of Crime Funding

Line 196 (green sheet); (F-A-7228)
Language Part PP

Committee members voted unanimously “IN-A” to support the proposed one time \$6 million appropriation in *Line 196* to support victims of crimes. We know that the Judiciary Committee also voted this initiative into its budget deliberations (as well as LD 2084). Therefore, the committee voted to replace the language in *Part PP* to mirror the that of LD 2084, to read as follows:

Sec. PP-1. Transfer from General Fund unappropriated surplus; Purchased Social Services. Notwithstanding any provision of law to the contrary, on or before June 30, 2025, the State Controller shall transfer \$6,000,000 from the unappropriated surplus of the General Fund to the Department of Health and Human Services, Purchased Social Services, Other Special Revenue Funds account to provide one-time funding to replace reductions in grants to the department under the federal victim assistance formula grant program administered by the United States Department of Justice, Office of Justice program, Office for Victims of Crime, pursuant to the federal Victims of Crime Act of 1984.

Hospitals

Language Part KK
Language Part MM

Members unanimously voted *Parts KK* and *MM* “IN-A” with the following recommended changes that represent compromise lanaguge agreed on by the Department of Health and Human Services and the Maine Hospital Association.

Part KK. The committee voted to replace Part KK with the following language.

Sec KK-1. 22 MRSA §7932, sub-§10, as amended by PL 2003, c. 673, Pt. HH, §2, is further amended to read:

10. Critical access hospital. "Critical access hospital" means a hospital that must first be designated and approved by the State, as long as the State also has established an

approved rural hospital flexibility program, and that meets the conditions in effect on March 1, 2004 for critical access hospital status under the federal Medicare program. In addition, it must also:

B. Have a Medicare participation agreement as a hospital and be in compliance with the Medicare hospital conditions of participation when applying to become a critical access hospital;

B-1. Provide the state with a plan for review as part of the licensing process to convert to a Critical Access Hospital that includes how the conversion will address gaps identified in the Community Health Needs Assessment by including the following:

- (1) A copy of the most recent Community Health Needs Assessment;
- (2) An estimate of the financial impact that will be realized by converting to a critical access hospital;
- (3) A utilization plan that quantifies the amount of total anticipated revenues that will be used to help meet the Community Health Needs identified in the most recent assessment which are not currently being met

C. Be certified by the State prior to January 1, 2006 as being a necessary provider of health care services to residents in the area or be located more than a 35-mile drive from any other hospital or critical access hospital. In mountainous terrain or in areas with only secondary roads, the mileage criterion is 15 miles;

D. Provide not more than 25 beds for acute hospital-level inpatient care:

- (1) Except that a swing-bed facility is allowed to have up to 25 inpatient beds that can be used interchangeably for acute or skilled nursing facility care; and
- (2) In addition to the 25-bed limit for acute inpatient care, a hospital may have distinct parts with 10 or fewer psychiatric inpatient beds or 10 or fewer inpatient rehabilitation beds, or both; and

E. Agree to provide inpatient care for a period that does not exceed, as determined on an annual average basis, 96 hours per patient.

G. Agree to provide an annual report to the department for a period of 5 years demonstrating its use of revenues to support the health care needs of the community.

Part MM. The committee voted to replace Part MM with the following language.

Sec. MM-1. 22 MRSA §1730, is enacted to read:

§1730. Upper payment limits to hospital providers

The Department's Medicaid policies are subject to compliance with all applicable federal requirements, including payment limits found in 42 CFR § 447.271, 42 CFR § 447.272, and 42 CFR § 447.321. Beginning July 1, 2024, if MaineCare payments to hospital providers exceed the upper payment limits described in federal rules and requirements, the department shall limit payments to hospital providers to the level that will ensure compliance with upper payment limits. At least 60 days prior to taking any action pursuant to this section, the department shall share with hospitals the department's upper payment calculations, including all data inputs. Subsequently, if and when the federal government determines that payments

are below the upper payment limit, the department shall increase payments as permitted under federal policy and shall notify the hospitals of same.

PRTFs

The committee unanimously voted to add an initiative and language to require the Department to contract with an entity to build a psychiatric residential treatment facility in the state. We propose the following:

Sec. _ Psychiatric Residential Treatment Facilities. No later than 90 days after adjournment of the second regular session of the 131st Legislature, the Department of Health and Human Services shall issue a request for proposals to develop one or more psychiatric residential treatment facilities in the state to meet the needs of adolescents who have high levels of behavioral health needs that cannot be met by existing behavioral health services in the state. Capital costs related to operationalizing such a facility or facilities shall be included in the request for proposals, with a goal of using existing Maine facilities. Should no provider or vendor respond to the request for proposals by September 1, 2024, the Department is authorized to issue a sole source contract. Should the department fail to enter into an agreement with a provider or vendor to develop one or more facilities by January 1, 2025, the department must, by February 1, 2025, present a plan to the joint standing committee having jurisdiction over health and human services describing how the department will meet the residential care needs of adolescents with high levels of behavioral need.

The initiative requires funding to support the establishment of a PRTF, although the funding amount required is not clear. Our understanding is that a \$2 million appropriation for capital costs would allow for the development of a PRTF in the state.

Community Behavioral Health and Substance Use Disorder Services

The committee unanimously supported an initiative to set aside \$15 million to fund bills on the special appropriations table that address the great need for community behavioral health and substance use treatment services in Maine. The committee heard many bills related to these topics in the 131st, and remains very concerned over the continuing lack of access to these critical services throughout the state.

DIVIDED VOTES

The following initiatives and language received party line (8-5) votes:

Family Planning

Lines 113 and 114 (green sheet); (F-A-2151 and F-A-2152)

This initiative appropriates funding for family planning services, including rate reform for long acting reversible contraceptives. The caucuses voted as follows:

- The Democratic caucus voted these lines “IN”
- The Republican caucus voted these lines “OUT”

Nursing Facilities

The committee has heard that the funding in the proposed budget is insufficient to cover the costs of nursing facilities. All legislators are concerned about recent nursing facility closures.

Lines 161-163 (green sheet); (F-A-2156)

This initiative appropriate funding for nursing facility rate reform. While both caucuses voted these lines “IN” they voted to amend the initiative as follows:

- The Democratic caucus voted to support increasing funding to nursing facilities, but request that the AFA committee consider what the specific amount of funding is required to support nursing facilities based on needs of patients and providers.
- The Republican caucus voted to support increasing funding to nursing facilities but with a \$31 million General Fund appropriation, along with any allowable federal match, for a total funds of almost \$100 million.

State SNAP

Line 165 (green sheet); (F-A-1843)

Language Part QQ

The initiative on *Line 165* appropriates \$5.4 million to support state Supplemental Nutrition Assistance Program (SNAP) benefits for certain residents who are ineligible for federal SNAP benefits due to immigration status. The caucuses voted as follows:

- The Democratic caucus voted this line “IN” but amended it to add \$2.5 million to the \$5.4 million proposed by the Governor, for a total appropriation of \$7.9 million.
- The Republican caucus voted this line “OUT”

Part QQ repeals the hardship exception allowing access to state-funded SNAP for individuals who have obtained proper work documentation but are unemployed. The caucuses voted as follows:

- The Democratic caucus voted this part “OUT”. The estimated costs of rejecting this proposal is \$2.5 million, hence the increase in funding in line 165.
- The Republican caucus voted this part “IN”

General Assistance

Line 166 (green sheet); (F-A-1844)

Language Part II

Language Part OO

Additional initiatives

The initiative on *Line 166* provides one-time funding of \$5 million to support increased demand for General Assistance reimbursement to municipalities. *Language Part OO* requires the transfer of this \$5 million from unappropriated surplus. The caucuses voted as follows:

- The Democratic caucus voted line 166 and Part OO “IN-A” but with an amendment to add \$20 million to the \$5 million proposed by the Governor, in order to cover the additional funds needed with a rejection of the policy change proposed in Part II.
- The Republican caucus voted line 166 and Part OO “IN”

Part II would limit General Assistance provided by municipalities exceeding the maximum levels of assistance for more than 30 days in a 12-month period for any household. The caucuses voted as follows:

- The Democratic caucus voted to replace Part II language with the following (the green sheet vote line shows “IN-A” but it is a complete replacement):

Sec. II. 22 MRSA §4308, sub-§2, as amended by PL 2019, c. 515, §2, is further amended to read:

2. Emergencies. A person, including a person experiencing or facing homelessness, who does not have sufficient resources to provide one or more basic necessities in an emergency is eligible for emergency general assistance, even when that applicant has been found ineligible for nonemergency general assistance, except as provided in this subsection.

A. A person who is currently disqualified from general assistance for a violation of section 4315, 4316-A or 4317 is ineligible for emergency assistance under this subsection.

B. Municipalities may by standards adopted in municipal ordinances restrict the disbursement of emergency assistance to alleviate emergency situations to the extent that those situations could not have been averted by the applicant's use of income and resources for basic necessities. The person requesting assistance shall provide evidence of income and resources for the applicable time period.

A municipality may provide emergency assistance to initial applicants when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs.

A municipality may, at any time, refuse to grant assistance to a hotel, motel or other lodging place that is in excess of 150% of the applicable payment standard under the program, provided that the requirements of the general assistance program can be met elsewhere.

- The Republican caucus voted Part II “IN” as proposed.

Additional GA initiatives

The committee divided on party lines to add to the supplemental budget an increase from 70% to 90% for state reimbursement to municipalities for General Assistance expenses. This proposal is identical to that in LD 1664 (see below). The Democratic caucus supports adding the following language and accompanying funding initiative to the supplemental budget:

1. **Sec. 1. 22 MRSA §4311, sub-§1**, as amended by PL 2015, c. 267, Pt. SSSS, §1, is further amended to read:

1. Departmental reimbursement. When a municipality incurs net general assistance costs in any fiscal year prior to July 1, 2015 in excess of .0003 of that municipality's most recent state valuation relative to the state fiscal year for which reimbursement is being issued, as determined by the State Tax Assessor in the statement filed as provided in Title 36, section 381, the Department of Health and Human Services shall reimburse the municipality for 90% of the amount in excess of these expenditures when the department finds that the municipality has been in compliance with all requirements of this chapter. If a municipality elects to determine need without consideration of funds distributed from any municipally-controlled trust fund that must otherwise be considered for purposes of this chapter, the department shall reimburse the municipality for 66 2/3% of the amount in excess of such expenditures when the department finds that the municipality has otherwise been in compliance with all requirements of this chapter.

The department shall reimburse each municipality and each Indian tribe 70% of the direct costs incurred by that municipality or tribe on or after July 1, 2015 and until June 30, 2024 for the general assistance program granted by that municipality or tribe. ~~For the purposes of this subsection, "Indian tribe" has the same meaning as in section 411, subsection 8-A.~~

Beginning July 1, 2024, the department shall reimburse each municipality and each Indian tribe 90% of the direct costs incurred by that municipality or tribe for the general assistance program granted by that municipality or tribe.

For the purposes of this subsection, "Indian tribe" has the same meaning as in section 411, subsection 8-A.

2. An initiative appropriating an additional \$8 million for General Assistance to fund the additional cost of reimbursement to municipalities at 90%.
 - The Democratic caucus voted to include this initiative in the supplemental budget.
 - The Republican caucus voted against this initiative.

OFI Positions

Line 167-168 (green sheet); (F-A-1845)

This initiative provides funding for a communications and government relations staff person for the Office of Family Independence. The caucuses voted as follows:

- The Democratic caucus voted this line "IN"
- The Republican caucus voted this line "OUT"

Line 169-170 (green sheet); (F-A-1847)

This initiative provides funding 25 Eligibility Specialist positions, 3 Family Independence Unit Supervisor positions, and one Program Administrator position within the Office of family Independence. The caucuses voted as follows:

- The Democratic caucus voted this line "IN"
- The Republican caucus voted this line "OUT"

Hospitals

Language Part LL

This language would change MaineCare reimbursements for critical access hospitals. The caucuses voted as follows:

- The Democratic caucus voted this “IN” but amended as follows:

Sec. LL-1. 22 MRSA §1714-C, as amended by PL 2011, c. 548, §8 is amended to read: Beginning April 1, 2011 and ending December 31, 2024, the department shall reimburse critical access hospitals from the total allocated from hospital tax revenues under Title 36, chapter 377 at least \$1,000,000 ~~in state and federal funds to be distributed annually among critical access hospitals for staff enhancement payments.~~

Sec. LL-2. 22 MRSA §1714-D, as amended PL 2011, c. 687, §9 is amended to read: Beginning April 1, 2012, the department shall reimburse licensed critical access hospitals at 109% of MaineCare allowable costs for both inpatient and outpatient services provided to patients covered by the MaineCare program. Beginning January 1, 2025, the department shall reimburse licensed critical access hospitals at 104.5% of MaineCare allowable costs for both inpatient and outpatient services provided to patients covered by the MaineCare program. ~~Of the total allocated from hospital tax revenues under Title 36, chapter 375, \$1,000,000 in state and federal funds must be distributed annually among critical access hospitals for staff enhancement payments.~~

- The Republican caucus voted this lanaguge “IN” but amended as follows (please note that the reimbursement rate is changed from 104.5% to 106% to reflect concerns about the loss of revenue by certain hospitals under the hospital rate reform package):

Sec. LL-1. 22 MRSA §1714-C, as amended by PL 2011, c. 548, §8 is amended to read: Beginning April 1, 2011 and ending December 31, 2024, the department shall reimburse critical access hospitals from the total allocated from hospital tax revenues under Title 36, chapter 377 at least \$1,000,000 ~~in state and federal funds to be distributed annually among critical access hospitals for staff enhancement payments.~~

Sec. LL-2. 22 MRSA §1714-D, as amended PL 2011, c. 687, §9 is amended to read: Beginning April 1, 2012, the department shall reimburse licensed critical access hospitals at 109% of MaineCare allowable costs for both inpatient and outpatient services provided to patients covered by the MaineCare program. Beginning January 1, 2025, the department shall reimburse licensed critical access hospitals at 106% of MaineCare allowable costs for both inpatient and outpatient services provided to patients covered by the MaineCare program. ~~Of the total allocated from hospital tax revenues under Title 36, chapter 375, \$1,000,000 in state and federal funds must be distributed annually among critical access hospitals for staff enhancement payments.~~

Please note that both caucuses support the technical correction to 22 MRSA §1719-C.

ADDITIONAL COMMENTS RELATED TO GENERAL ASSISTANCE

The committee discussed a three-pronged approach to General Assistance, involving three bills: LD 1540, LD 1664 and LD 1732. Details of this approach are described below:

1. LD 1540, *Resolve, to Establish an Eviction Prevention Pilot Program* received a divided report out of the Housing Committee. As amended, this bill directs the Maine State Housing Authority to develop a pilot program to provide support for eviction prevention. The pilot program will provide rental assistance, paid directly to the landlord of an eligible person in an amount up to \$300 per month for up to 24 months. The resolve establishes eligibility criteria for assistance under the pilot program. The resolve directs the Maine State Housing Authority to delegate the administration of the pilot program to one or more of any of the following: a municipal housing authority, a community action agency or another qualified entity determined by the Maine State Housing Authority. The resolve establishes a fund for the purposes of the pilot program and provides a General Fund appropriation.

LD 1540 is currently on the special appropriations table. The HHS committee considers this bill vital to begin to address the pressures currently placed on general assistance programs to provide support to people struggling to afford housing costs.

2. LD 1664, *An Act to Increase Reimbursement Under the General Assistance Program* is also currently on the special appropriations table. In its amended form, this bill increases, from 70% to 90%, the amount of state reimbursement for the costs of general assistance incurred by each municipality and Indian tribe.

The HHS committee has discussed the possibility of recommending amendments to this bill that would (1) implement an incremental increase, up to 90% reimbursement, and (2) incorporate language originally appearing (and struck via committee amendment) in LD 1732 that stated if a municipality elects to determine need without consideration of funds from a municipally controlled trust, the State is required to reimburse the municipality for 66 2/3% of the amount in excess of expenditures.

3. LD 1732, *An Act to Expand the General Assistance Program*. The committee voted unanimously to reported out an amended version of this bill. The amendment focuses the bill on policy and training changes, rather than changes to reimbursements to municipalities from the state, which the committee hopes to address through LD 1664.

The amendment:

- a) Requires overseers and others administering general assistance programs to complete training within 120 days of election or appointment;
- b) Requires municipalities to accept applications for non-emergency general assistance during regular business hours;
- c) Amends provisions governing the municipality of responsibility to increase the provision of assistance from 30 days to 6 months when a municipality assists an applicant in relocating to another community and from 6 months to 12 months when an applicant is residing in a group home, shelter, rehabilitation center, nursing home or hospital or in a hotel, motel or other temporary housing;
- d) Requires that overseers and others administering general assistance programs deliver services in a trauma-informed and culturally and linguistically appropriate

manner;

- e) Requires the Department of Health and Human Services to ensure that each municipality complies with its duty to provide trauma-informed services and culturally and linguistically appropriate services and requires the Department to provide mandatory training to municipalities to ensure that a municipality is able to comply;
- f) Beginning on July 1, 2025, it requires the department to provide overseers access to an Internet-based, real-time database containing the information necessary to properly determine an applicant's eligibility; and
- g) Adds a reporting requirement for a biennial report to be submitted to the committee of jurisdiction in the legislature no later than January 30 in each odd numbered calendar year, except that the initial report shall be submitted in 2026. The initial report shall include recommendations regarding a potential extension of the eligibility period beyond 30 days.

LD 1732 is currently on the floor.

While funding for these bills will ultimately be decided on the Special Appropriations Table, the HHS committee would like to ensure that the AFA committee is aware of this committee's multi-pronged approach to the great need within the General Assistance program. This approach also informed the Committee's votes and suggestions regarding the General Assistance related initiatives in the Governor's proposed supplemental budget.

Thank you for your consideration of our proposals. We are happy to further discuss this report at any time.

cc: Health and Human Services Committee members
Commissioner Jeanne M. Lambrew, Department of Health and Human Services
Deputy Commissioner Benjamin Mann, Department of Health and Human Services
Molly Bogart, Government Relations Director, Department of Health and Human Services
Maureen Dawson, OFPR
Luke Lazure, OFPR
Anna Broome, OPLA
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