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STATE OF MAINE
ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE
COMMITTEE ON HEALTH AND HUMAN SERVICES

To: Senator James Hamper, Senate Chair
Representative Margaret R. Rotundo, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

From: Senator Eric Brakey, Senate Chair EB
Representative Drew Gattine, House Chair DG
Joint Standing Committee on Health and Human Services

Date: March 31, 2015

Re: LD 1019, An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2016 and June 30, 2017

The Health and Human Services Committee is pleased to provide its recommendations on LD 1019, the biennial budget bill. Committee votes are contained in the attached spreadsheets. This memo is to provide additional information and reasoning on some initiatives with divided reports.

Riverview Psychiatric Center initiatives

The Committee voted 7-6 against the initiatives in lines 21-24 related to establishing 14 acuity specialists (with the minority voting in favor of the positions). The majority remains deeply concerned about the current state of the hospital, and in particular, the tremendous increase in mandated overtime. There is concern that the staffing that has been requested is still inadequate and should be increased further. The majority believes that the current plan does not address the long-term issues at the root cause of the problems at the hospital including the following:

1. Resolution of the lack of funding from CMS and recertification.
2. The pressures put on the hospital by admission of patients from the jails for evaluation and other court-ordered patients.

3. The inability of the hospital to engage patients in active treatment during admission.
4. The lack of resources available to move patients out of the hospital when they no longer need a hospital level of care.
5. Staffing assignments that do not protect staff nor address the current needs of the facility.
6. The lack of a plan addressing the needs of staff and patients from the present to the planned future goals of Mr. Harper.
7. The correct mix of acuity specialists and mental health workers is still unclear.

Position eliminations

The Committee voted 7-6 to move in some of the position eliminations in lines 333-369 with the exception of the 48 positions proposed for elimination in the Maine Centers for Disease Control and Prevention. The majority of the Committee understands that these positions have been vacant for some time but is concerned with what appears to be an emerging move to dismantle the public health infrastructure. The minority of the Committee voted in favor of the elimination of all the positions in lines 333-369.

Fund for a Healthy Maine

The Committee voted 7-6 against the FHM initiatives in lines 395-398 and 402-404. The minority voted for the initiatives. The majority of the Committee disagrees with the assumption that primary care physicians will assume responsibility for significantly challenging tasks such as tobacco cessation and administering treatment for individuals with opiate addictions. There was no testimony presented at the public hearing or work session (other than from the Department) indicating that primary care physicians were prepared to take on these additional responsibilities. The FHM funds to community/school grants and Healthy Maine Partnerships are used to deliver essential services on the ground that would otherwise not be available.

The Committee voted 7-6 to move in lines 399-401 related to the Immunization Program. The minority of the Committee (in this case, the Democrats) argue that the Affordable Care Act may have reduced the need for FHM funding for immunization, that unused funding should be retained within the FHM and used for other underfunded programs such as used for Home Visiting or Head Start.

Cycle payments

The Committee voted 7-6 against the additional $7.8m in cycle payments in lines 441-442. The majority voted against these initiatives because it is still unclear how this number was determined and why baseline payments need to be increased given the significant drop in overall MaineCare caseload. The majority understands and agrees that there does need to be an adjustment based on the 53rd cycle payment in FY16. The minority of the Committee voted in the proposals as presented.

Medicare Savings Plan and the Drugs for the Elderly Program

The Committee voted 8-5 to reject the proposed changes to the MSP and DEL programs in lines 444-448, 455-458 and Part TT. The majority of the Committee is concerned about health consequences from lowering the poverty level eligibility for these programs. The minority of the Committee voted to accept the proposals noting that Maine is one of only two states that offer eligibility above the federal government's minimum requirement.

The following comments are from Rep. Vachon who voted with the majority to reject the proposals related to MSP and DEL:

MSP/DEL is very confusing for both the Committee but also for consumers. The ACA has taken from the seniors and given to the under 65 market, creating a very costly transition from under 65 health insurance to Medicare for Maine's seniors whose poverty level ranges from 100% - 175% of Federal Poverty Level.

At age 64 at 175% of FPL an individual health insurance plan has two cost elements:

- $87.64/month premium
- $1,750 out-of-pocket maximum (including prescriptions).
- = total cost/year: **$2,801.00**

Under the current law, a person aged 65 on Medicare at 175% FPL pays the following:

- $0/month – Part B Premium (MSP)
- $0/month – Prescription Drug Premium (LIS/DEL)
- $0 when they hit the donut hole; very small co-pays for their meds prior to hitting the donut hole (approximately $740.00/year)
- $186.00/month Medigap plan*
  = Total cost/year **$2,972.00** (cost varies by health & meds)

Under the proposal in the budget, at age 65 an individual on Medicare, these are the cost elements that the individual would be facing:

- $104.90/month – Part B premium
- $186.00/month – Medigap premium*
- $33/month – Prescription drug plan premium*
- Prescription Drug Donut exposure risk of up to additional $4,700/year.
  = Total cost/year **$8,586.00** (cost varies by health & meds)

*These plans could be substituted for a Medicare Advantage Plan option.

Health insurance is confusing. It is expected that as we age, we will have to pay more for our health insurance. However, it must be affordable. If the new initiative is enacted, it will send sticker shock waves to our low income seniors.

Below is an illustration of what health insurance costs a person, age 64, with chronic health conditions and expensive meds. Please note the premium prices/month, and the maximum out of pocket (which includes all prescription costs) for a senior under age 65. This is an all-in-one plan and in every single case, the premium is under $100.00/month.

Maine Community Health Options					
Health Insurance costs for a 64 year old					
Poverty Level	**100%**	**120%**	**133%**	**150%**	**175%**
Monthly Premium	$19.45	$23.34	$38.80	$58.35	$87.64
Deductible	$200	$200	$200	$500	$500
Maximum out-of-Pocket*	$500	$500	$500	$1,750	$1,750
Chronic Illness Support	Yes	Yes	Yes	Yes	Yes
Prescription Coverage	Yes	Yes	Yes	Yes	Yes
Generic	$5 co-pay	$5 co-pay	$5 co-pay	$5 co-pay	$5 co-pay
Pref after deductible	10%	10%	10%	15%	15%
Non Pref after deductible	10%	10%	10%	20%	20%

* The Maximum Out-Of-Pocket includes all prescription drugs in the formulary.

As soon as a senior turns 65, they must go to Medicare. Looking at the chart above, one should quickly see the sticker shock for the low-income senior who now must not only pay their Part B Premium at $104.90/month but also must pay deductibles and co-insurances of their Medicare Part A & Part B as well as either picking up a Medicare Part C (Medicare Advantage Plan) with a range in price of $0-$89/month that includes Part D, or a stand-alone Part D, with a range in price of $15.80-$78/month and a Medigap Plan (F plan as an example here) at approximately $186-$303/month. Please note: unlike the under 65 plan above, the prices so far stated for Medicare only cover monthly premium. These low income seniors are also subject to prescription drug costs and the donut hole.

For low-income Medicare recipients these are tough and expensive pills to swallow. Coming from an under 65 plan, such as the above, and facing the expensive transition to Medicare, low income seniors are not conditioned to pay these hefty premiums and prescription costs. They will simply opt out.

The proposal to scale back MSP/DEL to the national FPL will have a series of unintended consequences which could be penny wise and pound foolish. Seniors in this category will not participate in Part B, will scale back, or not take their meds which will result in more visits to the ER, greater risk for hospitalization, and in the end, higher costs falling on Maine's Medicaid programs.

Nevertheless, this is a very expensive program. Here are some recommendations that could potentially lower the cost of care:

1. The department should collaborate with private health insurance companies to understand their managed care programs and how they can interface with Maine's integrated care initiatives.
2. The department should consider applying for a managed care waiver.
3. The department explore the utilization of Medicare Advantage Plans to fill the gaps of AMB cross-over payments.
4. The Legislature, the department and senior care partners should collaborate on how to best educate seniors on all Medicare options for optimum savings to Maine taxpayers.
5. The Legislature, the department, senior care partners, insurance companies and pharmaceutical companies should collaborate on cost saving prescription practices to reduce the incidence of fraud, waste and abuse of prescription usage and disposal.

To recap, this is a senior population that Rep. Vachon's work with as a health insurance agent. Many of her clients either smoke or are former smokers and many have smoking related health issues. DEL has sourced its funds, in part, from the Racino. This money flows into the FHM. These funds pay for the current MSP program, in which the federal government matches and provides LIS. Rep. Vachon believes that these funds have been well leveraged to provide coverage at a cost that is reasonable and in line with the transition from individual coverage in the under 65 year individual market. While this is a costly initiative, she argues that the tobacco settlement money was provided to pay the cost of health care to seniors who were unaware of the risks due to smoking and we should consider using more FHM funds to pay for MSP/DEL.

PNMI income cap

The Committee voted to reject the proposal to implement an income cap of 175% FPL for individuals applying for coverage in certain PNMIs in lines 449-450. The majority of the Committee rejected the proposal entirely in a 7-6 vote. Setting an income cap below the private pay rate leaves people and facilities in a difficult position. People in facilities who are supplementing their income with their savings to pay their PNMI bill will not have that ability when they run out of their savings. At that point, facilities will be forced to try to discharge them for non-payment at the same time as they are unable to do so if they cannot provide a safe discharge plan (according to Department rules). Facilities will also have a disincentive to admit anyone who cannot pay private pay rates further limiting access to PNMIs with an overall negative impact on the industry. In addition, 23% of the people in PNMIs today are eligible for higher-cost Nursing Facility level of care. If approximately 54 people eligible for Nursing Facility care move from PNMIs to Nursing Facilities the total amount of the savings in this initiative will disappear, offset by increased Nursing Facility costs.

The minority of the Committee voted to amend the proposed initiative from 175% FPL to 250% FPL.

Hospitals

The Committee voted 7-6 to reject all of the hospital initiatives in lines 481-488 and Part HHH. The minority of the Committee voted to amend the Critical Access Hospital initiatives in lines 483-484 and Part HHH to reimburse at 107% of cost rather than the proposed 101% or the present 109%.

Methadone

The Committee voted 7-6 in favor of the proposal to eliminate MaineCare coverage for methadone for substance abuse treatment in lines 501-502. The minority is opposed to the proposal. The minority opposes the initiative because it seems unworkable given the overwhelming testimony from medical and treatment professionals that suboxone cannot be effectively substituted for methadone for many people with long term opiate addictions. Also, it is still unclear how the Department determined the savings with respect to this initiative and there is concern that the costs of the suboxone treatments have been significantly understated. The Committee heard testimony that there may be inadequate provider capacity (especially if the goal is that primary care providers provide the service). The judgment against the Department of Health and Human Services in *Banks v Concannon* may also preclude the Department from eliminating methadone.

Section 28 and Section 65 Rate changes

The Committee voted 7-6 to reject the initiatives proposing changes to Section 28 and Section 65 rates in lines 499-500 and 503-506. The majority of the Committee was convinced by the overwhelming testimony that the Department did not evaluate or take into consideration the impact that these cuts would have on the availability of services to members who rely on them, including children with extremely high needs. Early intervention services are vital to a child's success in both medical and educational development. Many of the providers that currently provide these services, including providers of children's services, currently maintain wait lists and some stated very clearly that they will be unable to continue to provide these services if faced with these rate cuts. In addition, the proposal does not distinguish how much of the proposed savings come from Section 65 and how much comes from Section 28. It is also unclear what part of the funds may be "state seed" as part of an arrangement between the Department of Health and Human Services and the Department of Education.

The majority of the Committee is concerned that the rate-setting process undertaken by the Department did not adequately account for provider costs in Sections 28 and 65. Deloitte completed a study of Section 65 services in 2008 which was appropriate at the time. There has never been a study of center-based services in Section 28. The internal review document provided by the Department does not constitute a rate-setting study. The majority of the Committee would like a full and open rate-setting process conducted by a third party and including stakeholders for both of these services.

The minority of the Committee voted to accept the proposals in lines 499-500 but voted to amend the proposals in lines 503-506. The minority voted for a 5% rate reduction rather than the proposed 10% cut. In addition, the minority voted to require the Department to undertake a rate-setting study for these services.

Benefits for Legal non-citizens

The Committee voted 7-6 against the initiatives that would eliminate TANF, SNAP, SSI and GA to non-citizens in lines 573-575 and Parts ZZ and DDD. The majority believes, based on overwhelming testimony and information, that supporting new Mainers is critical to building a better economic future for Maine and that a relatively small amount of temporary support to new Mainers pays significant dividends. The majority of the Committee is impressed with the skills of non-citizens and their eagerness to work. The minority of the Committee is concerned that a poor, rural state like Maine finds it difficult to meet the needs of its people. The proposals to eliminate state-funded TANF, SNAP and SSI to non-citizens take effect October 1, 2015 and the minority supports this delayed introduction.

The entire Committee is united in its frustration that federal law requires an asylum seeker to wait 150 days before applying for a work permit and federal resources are insufficient to process paperwork (both work permits and asylum decisions) in a timely fashion. The Committee would support a Joint Resolution recognizing the need for federal reform in the asylum application process.

General Assistance

The Committee voted 7-6 against the initiatives in line 150 and Part KKK that propose to change the formula (with the minority voting in favor of the positions). The majority of the Committee does not support the proposed changes to the methodology used by the Department to reimburse municipalities for a share of GA provided to their residents. The proposed formula would have an adverse impact of 169 municipalities in Maine (and the number would be higher if the economy was not strengthening, reducing GA demand compared to most of the last six years). This reduction in funding would have a devastating impact on needy Mainers with no other place to turn.

Testimony from the Department stated that the current methodology creates a perverse incentive to spend more to get to the 90% state match. The majority finds no such perverse incentive in the current system. Maine law clearly establishes the maximum amount of assistance that must be provided in different areas of the State and, despite allegations to the contrary, the statute leaves little flexibility with respect to GA eligibility or benefit amounts to municipalities. Given the law, it is hard to imagine how this new proposal could incentivize municipalities to behave differently. Municipalities will still be required to follow the law and provide assistance based on the eligibility criteria provided in the statute. The proposed formula would function similar to a block grant limiting the state's exposure when the next economic downtown comes. The Legislature has appropriately and repeated rejected this approach in recent years.

The majority of the Committee believes that the GA program has become a de facto housing program resulting from the State's failure to implement an affordable housing strategy. While the GA program is intended to provide people in immediate need with basic necessities like housing, it is a poor substitute for the longer term unmet need for affordable housing faced by so many Maine people with low incomes. We must address the underlying problem, which is the lack of affordable housing, in order to truly reform the General Assistance program so that it better meets its intended purpose.

The majority of the Committee proposes three strategies to begin to address this problem in lieu of the approach proposed in Line 150 and Section KKK. To be clear, this approach will not eliminate the need for GA. But this is a far more rational approach for Maine communities and people in need and it would allow GA to be more focused on its original purpose – short term emergency assistance of last resort.

1. **Support and fully fund LD 443, An Act to Help Stabilize Homeless Shelters in Maine.**

Maine's 42 emergency homeless shelters, including those that service victims of domestic violence, are in crisis. Inadequate shelter resources cause many in need of a warm, dry place for the night to be turned away. Several shelters have closed in recent years adding pressure to those still struggling to serve a growing homeless population. LD 443 provides the additional state funding critical to maintain this essential network.

GA currently spends $2,990,812 (17% of total expenditures) on Emergency Housing mainly at homeless shelters. We recommend transferring these funds to a new Maine Community Shelter Fund, along with other existing shelter funding and appropriating the additional funds requested by LD 443 to create a more appropriate and adequate system for funding Maine's homeless shelters.

2. **Support LR 1702, An Act to Implement a Rental Assistance Program for Low-income Households and Individuals.**

GA currently spends $10,564,824 (58% of its total budget) on rent along. All housing-related costs represent 82% of the GA program budget. Homeless shelters are not a solution to the housing affordability problem faced by many Maine families. LR 1702 would create a rental assistance program modeled on the federal Housing Choice program for those who have applied for federal help, but are on a waiting list. It would use $3m of new HOME fund dollars not already allocated for another purpose to fund this program. It is estimated that these funds would serve approximately 450 families or individuals at risk of homelessness throughout the State. While LR 1702 will not relieve all of the GA housing costs, it will directly reduce it by targeting those most likely to need help with their rent from GA.

3. **Support the Preble St. and Avesta Housing partnership to create a new "Housing First" project for Medically Compromised Individuals.**

Housing First is an approach that offers permanent, affordable housing as quickly as possible for individuals and families experiencing homelessness. This model provides the supportive services and connections to the community-based supports people need to avoid returning to homelessness. Empirically, this model has proven the most effective approach to ending chronic homelessness, as demonstrated by its success around the country.

Preble Street's Logan Place proves this point in Maine. Offering 30 apartments to people with a long-term history of homelessness and mental illness or substance abuse, it has resulted in the near elimination of the shelter beds use by this group; a 70% decrease in physical health care costs and 35% decrease in mental health costs; an 88% decrease in jail nights.

Preble Street, in partnership with Avesta Housing, has a third "housing first" project in the works. Avesta has a site under control. This project has cleared the local Planning Board, and Avesta has lined up the necessary financing. The Portland Housing Authority has agreed to provide federal vouchers to prospective tenants. However the ongoing operating costs needed to implement this project have not yet been secured. Despite requests to include funding for this project in this biennial budget (a similar project, Florence House already receives General Funds) no such budget allotment was made. Ongoing annual support of approximately $796,646 is needed to secure this opportunity to provide stable housing to 30 medically compromised homeless individuals who would transition from the shelter system to permanent housing.

The majority of the Committee believes that the elements of this proposal represent an effective, evidence-based, policy alternative to that offered in the budget proposal and we ask for your thoughtful consideration of this alternative approach.

Drug Court

The Committee voted to increase the baseline funding for the Drug Court in line 674. As you know, there are no initiatives related to the Drug Court in the proposed budget. In 2011, Maine's Drug Court program was awarded a three year $1.5m enhancement grant from the Bureau of Justice Assistance to enhance case management and this grant expires on September 30, 2015. Seven members of the Committee voted to increase the Drug Court case management budget by $301,000 in FY 16 and $353,000 in FY 17 to make up for the shortfall caused by the expiring grant. Six members of the Committee voted to increase the Drug Court management budget by $200,000 in each fiscal year.

Child Psychiatry Access Program

The majority of the Committee voted to include the expansion of the Child Psychiatry Access Program (CPAP) to counties that lack access to child psychiatrists with an appropriation of $500,000 in each fiscal year of the biennium. The vote to include this initiative was 7-6 in line 675. CPAP is a program designed to address the mental health needs of children and adolescents within the primary care setting. There are CPAPs in

multiple states including in Maine operated by MaineHealth in southern Maine. There is a dearth of child psychiatrists in Maine and particularly in rural Maine. Extending CPAP would allow the utilization of primary care providers to provide basic mental health assessment and treatment for child and adolescent patients. The minority of the Committee agree there is a lack of access to child psychiatrists but believes the idea is not detailed enough at this point.

Office of Information Technology

The Committee voted unanimously to amend all of the initiatives related to OIT. The Committee recommends a 10% reduction in the requested increases for all OIT-related items.

Waitlists for Section 19 blippie

The Committee voted unanimously in support of the initiative on lines 388-389 that proposes to eliminate the waitlist for those on the Section 19, Home and Community Based benefits for the Elderly and for Adults with Disabilities. Recently, the Section 19, Home and Community Based benefits for the Elderly and for Adults with Disabilities was combined with the Section 22, Home and Community Based benefits for the Physically Disabled. The Committee understands there was a waitlist only for Section 22 services and not for Section 19 services prior to combining them and this waitlist actually consists of people with physical disabilities rather than elderly.

Section 21 Waitlist elimination

The Committee voted unanimously in favor of the proposals to eliminate the Section 21 waitlists in lines 144-146 and 151-153, the Democratic members of the Committee believe that given the enormous fiscal impact of this initiative (greater than $140 million in combined state and federal funding annually when fully implemented) there is more work needs to be done to determine the most accurate costs associated with providing these services and other ideas should be explored to provide these critical services more effectively and more cost efficiently.

The Democrats are not satisfied that the proposal in the budget properly accounts for the actual numbers of people requiring these services, for example, there are people on both waitlists who are counted twice. The future design of this system should continue to be examined. A more robust Section 29 could result in reduced costs per person and could delay, or even prevent, the need for more expensive Section 21 services. In addition, the fiscal costs of implementing the SIS starting in July 1, 2015, are unknown. We recommend that the Appropriations and Financial Affairs Committee continues to refine this proposal and the Health and Human Services Committee will be available to support them in this work.

Democratic proposals for additional sources of funding for the DHHS budget

The Democrats understand that a number of new initiatives require a significant amount of funding commitment, especially the critical initiatives to fund the waiting lists for waiver populations and the maintenance of primary care reimbursement rates. The proposals to fund these initiatives require dramatic cuts that will put children and seniors at risk and gut Maine's public health systems. The Democrats believe that the Legislature should explore the following sources of funding:

LD 501	Return estate tax to $1m threshold	$15m in FY16&17
LD 1019	Eliminate threshold increase to federal exemption	$14.1m FY17 only
	Raise cigarette tax by $1.50/pack	$40m in FY16 &17
	Tobacco equalization tax	$7m in FY16&17
	Eliminate proposed income tax cut to top 1%	$53.3m in FY16&17
	Eliminate proposed income tax cut 95-99%	$60.7m in FY16&17
	Eliminate proposed income tax cut 90-95%	$58.3m in FY16&17
	NEW	$234.3m in FY16 and $248.4m in FY17

Democratic proposals for new initiatives

The Democrats also believe there are additional initiatives that should be considered during the budget process, in addition to those described above. Many of these are tied to legislation working its way through the legislative process. These initiatives include:

		FY16	FY17
LD 87*	Nursing Facility reimbursement fixes	$2.2m	$2.8m
LD 90*	Personal Needs Allowance increase	$1m	$1.5m
	Housing First Project Support Services	$800K	$1.6m
LD 443	Stabilize homeless shelters	$3.5m	$3.5m
LR 1702	HOME Fund Rental Assistance	$3m	$3m
LD 477*	Peer Centers 10% contract increase	$148K	$148K
LD 842*	New Peer Center Reimbursement rates	$24K	$24K
LD 751	Bus Pass and Transport Voucher	$3m	$3m
LD 665	End Homemaker waiting lists	$1.5m	$1.5m
LD 472/831	End Meals on Wheels waiting lists	$500K	$500K
	Home Based Care – Seniors waiting list	$2.2m	$2.2m
LR 1808	Child Care to secure all federal match	$2m	$2m
LR 628	Restore Home Visiting funding	$5.4m	$5.4m
LR 629	Restore Head Start funding	$2m	$2m
LD 319	Family Planning funding	TBD	TBD
LR 156	Increase reimbursement for direct care	$9m	$9m
	Various MaineCare dental initiatives	TBD	TBD
		$36m	$36m

*OFPR fiscal note received.