

## An Order to Require Expeditious Implementation of the MaineCare Expansion

January 3, 2019

01 FY 19/20

WHEREAS, on November 7, 2017, Maine voters approved by a substantial margin a citizen-initiated bill entitled “An Act to Enhance Access to Affordable Health Care” (the “Expansion Act” or “the Act”), which provides for expansion of MaineCare services to a new eligibility group qualifying under the Affordable Care Act for an advantageous federal contribution rate.

WHEREAS, the Expansion Act became legally effective on January 3, 2018, under art. IV, pt. 3, sec. 19 of the Maine Constitution and required that the Department of Health and Human Services (“DHHS”): 1) submit state plan amendments (“SPAs”) to the federal Department of Health and Human Services, Center for Medicare and Medicaid Services (“CMS”) to ensure MaineCare eligibility for people qualifying under the Expansion Act, such SPAs to be submitted not later than April 3, 2018, 90 days from the effective date of the Act; 2) adopt rules, including emergency rules, as necessary and in a timely manner to implement the coverage required by the Expansion Act; and 3) to provide MaineCare coverage to those persons eligible under the Expansion Act not later than July 2, 2018, 180 days from the effective date of the Act;

WHEREAS, none of these actions were taken by the prior administration by the deadlines specified as needed to give effect to the Expansion Act according to its terms, and in addition a variety of administrative actions were taken that caused delays in effectuating coverage, generating time-consuming litigation premised on arguments that were rejected by the Superior Court;

WHEREAS, the Superior Court in an Order dated December 6, 2018 in *Maine Equal Justice Partners, et al., v. Commissioner, Maine Department of Health and Human Services*, No. BCD-AP-18-02, ordered the DHHS Commissioner to adopt rules as required by the Expansion Act retroactive to July 2, 2018, and such rules to be adopted by February 1, 2019;

NOW, THEREFORE, I, Janet T. Mills, Governor of the State of Maine, exercising the power vested in me, hereby order as follows;

The Commissioner of DHHS and its officials and employees under her direction shall:

1. Take all steps necessary to promptly: 1) make necessary changes to eligibility and payment systems and process applications prospectively; 2) work with CMS to amend the filings made by the prior administration in order to reflect the effective date of the Expansion Act and to obtain the earliest possible CMS approvals consistent with the Act; 3) adopt the rules required by the Expansion Act prior to the February 1, 2019 date ordered by the Superior Court; and 4) work expeditiously toward resolving issues affecting those who applied for coverage between July 2, 2018 and January 2, 2019.

2. Engage health care providers, organizations, patients, patient and consumer representatives and other stakeholders to develop and execute on an outreach and communications plan for enrolling eligible residents, understanding that smooth implementation will require time and phasing in of necessary components, as was contemplated by the Expansion Act in its original timeline; priority shall

be given to actions that will speed application and eligibility determinations in order to provide coverage as quickly as possible.

3. Develop a plan in concert with the Legislature to make the Expansion Act financially sustainable so that eligible people in Maine can get the health care they need in the short- and long-term as contemplated by the Expansion Act.

The effective date of this Executive Order is January 3, 2019.

Janet T. Mills, Governor