§3173-J. Rate-setting system for development and maintenance of sustainable, efficient and value-oriented reimbursement of MaineCare-covered services

This section establishes a rate-setting system for the development and maintenance of reimbursement of MaineCare-covered services that complies with the requirement in 42 United States Code, Section 1396a that rates be consistent with efficiency, economy and quality of care; that is adequate to support MaineCare member access to services; and that is equitable and data-driven. [PL 2025, c. 664, §3 (AMD).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Alternative payment model" means a health care payment model that uses financial incentives to promote or leverage greater value for patients, purchasers, payers or providers and that connects at least a portion of reimbursement to performance on defined quality measures. [PL 2021, c. 639, §2 (NEW).]

B. "MaineCare section of policy" means a set of MaineCare-covered services, as categorized by the department through the adoption of rules that specify the parameters for coverage. [PL 2021, c. 639, §2 (NEW).]

B-1. "Payment model" means the method that the department uses to reimburse providers for health care services, including whether the reimbursement is paid on a fee-for-service basis or another basis such as per member, per month or an estimated basis that is cost settled. [PL 2025, c. 664, §3 (NEW).]

C. "Rate determination" means a process conducted by the department to establish the payment model, associated reimbursement methodology and, if applicable, the rate amount for a MaineCare section of policy or for a specific covered service, whether through adoption or adaptation of a benchmark rate or payment model from another payer or through a rate study. [PL 2025, c. 664, §3 (AMD).]

D. "Rate study" means an analysis conducted by the department or its contracted vendor to develop a recommended payment model, associated reimbursement methodology and resulting rate amounts for current or potential MaineCare-covered services. A rate study relies on data collected as part of the analysis conducted by the department to inform the cost of providing services and resulting rates rather than relying on a benchmark of existing rates or payment models used by other payers. [PL 2025, c. 664, §3 (AMD).]

E. "Reimbursement methodology" means the method for determining the rate or reimbursement amount under the payment model. Examples of reimbursement methodologies include using standardized assumptions for determining service cost components, such as staffing levels, wages based on required qualifications, benefits and program administration, to determine a reimbursement rate per unit of service; using cost-based reimbursement, under which the MaineCare program determines the percentage it will pay of reported allowable costs; and adjusting reimbursements for patient acuity or the relative duration or intensity of the service. [PL 2025, c. 664, §3 (NEW).]

[PL 2025, c. 664, §3 (AMD).]

2. Rate-setting system principles and processes. The department shall establish MaineCare provider payment models, including reimbursement methodologies and rate amounts, where applicable, in accordance with the following principles and processes and adopted through rulemaking as described in subsection 3. Changes to rates required by the Federal Government to assist with emergency or extraordinary circumstances or rate reductions required by the Legislature for the purpose of responding to projected MaineCare budget shortfalls are not subject to this section. The department shall:

A. Develop annually a schedule of rate determination by MaineCare section of policy in consultation with the MaineCare Rate Reform Expert Technical Advisory Panel established under subsection 5 as follows:

(1) Post the rate determination schedule on its publicly accessible website, including the date of the most recent rate review and any discussion of issues related to member access by section of MaineCare policy and a description of how the most recent rate review and discussion of issues related to member access impacted the proposed and final rate determination schedule;

(2) Provide an opportunity for the public to review and comment on the rate determination schedule and make available a summary of these comments on its publicly accessible website; and

(3) Conduct off-schedule rate determinations as the department finds appropriate; [PL 2025, c. 664, §3 (AMD).]

B. Conduct or contract for, every 4 years, a comprehensive benchmarking report to compare MaineCare rates for all services to those paid by Medicare, at least 5 comparison Medicaid states and any appropriate Maine commercial payers. The department shall provide public notice of the initiation of the comprehensive benchmarking process, provide an opportunity for the public to review and comment on the draft report and make available a summary of these comments alongside the final report; [PL 2021, c. 639, §2 (NEW).]

C. No less frequently than once every 5 years, conduct a rate determination for each MaineCare section of policy or for a specific covered service, in accordance with the following procedures:

(1) Provide public notice of initiation of the rate determination for a MaineCare section of policy or for a specific covered service;

(2) Consider and, when appropriate, adopt alternative payment models that use financial incentives to promote or leverage greater value for the MaineCare program. This consideration must include a review of research on any available national models or best practices for reimbursement related to the service;

(3) Determine whether Medicare covers a specific service and whether the Medicare reimbursement methodology is appropriate for a specific covered service;

(4) In the absence of an appropriate Medicare rate comparison, review non-Medicare payer sources, including, but not limited to, commercial health care payers in the State or other states' Medicaid agencies. The department shall take into consideration the findings of the benchmarking report conducted in accordance with paragraph B;

(5) Conduct a rate study for every service for which an appropriate reimbursement methodology or comparison under subparagraph (3) or (4) either is unavailable or is inconsistent with the goals of efficiency, economy and quality of care to support member access. Each rate study must include the following:

(a) A review of data, which must include:

(i) An assessment as to whether the delivery of service and associated requirements have changed since the previous rate study, if available, to determine if the payment model or reimbursement methodology should be revised;

(ii) The collection of data applicable to the rate determination on provider costs and cost-related aspects of the delivery of service and associated requirements through existing cost reports, provider surveys and other available data sources; and

(iii) Research on any available national models or best practices regarding cost-related aspects of the delivery of service and associated requirements; and

(b) Developing or updating payment models or reimbursement methodologies by considering the following:

(i) The appropriateness of adoption of a change in payment model or reimbursement methodology consistent with the purposes of this section;

(ii) The current rate assumptions and their appropriateness given current provider costs, best practices or changes in the delivery of service and associated requirements;

(iii) The findings for related services of any comprehensive benchmarking report under paragraph B; and

(iv) The degree to which services are dependent on MaineCare reimbursement, including, but not limited to, cost factors, such as average wage, that may be reflective of restraints of MaineCare reimbursement versus costs of the broader marketplace; and

(6) Upon completion of the rate determination process, present the department's rationale and recommendations for the payment model, associated reimbursement methodology, resulting rate amounts, if applicable, for public comment prior to the rule-making process; convene a meeting of interested providers and other interested members of the public to discuss the recommendations and hear comments; respond in writing to comments with an explanation of whether and how feedback was incorporated into the final rate determination; and report on the overall fiscal cost associated with implementation under this subparagraph; and [PL 2025, c. 664, §3 (AMD).]

D. Ensure that rate amounts and other components of the reimbursement methodology developed under paragraph C are updated to keep pace with changes in the costs of delivering the service by:

(1) For rates benchmarked to Medicare rates, referencing Medicare rates for the most current year available, updated at least annually, and reviewing the current established percentage benchmark, as appropriate, taking into consideration the findings of the most recent benchmarking report conducted in accordance with paragraph B;

(2) For rates benchmarked to an alternate payer source, updating rates to the most current year of data for that payer source at least once every 2 years and reviewing the current established percentage benchmark, as appropriate, taking into consideration the findings of the benchmarking report conducted in accordance with paragraph B; and

(3) For rates determined through a rate study in accordance with paragraph C, subparagraph (5), providing an annual cost-of-living adjustment effective on a consistent date to be established by the department for each service that has not received a rate adjustment within the 12 months prior to the effective date of the cost-of-living adjustment and for which the department determines benchmarking in accordance with paragraph C, subparagraph (3) or (4) is not appropriate or advisable. In establishing and implementing cost-of-living adjustments, the department shall:

(a) Use inflation indices established through rulemaking to reflect a reasonable cost of providing services for different categories of services rather than reflecting other factors, such as private sector price increases or cost-shifting from different payers; and

(b) Maximize use of a single, consistent and general cost-of-living adjustment index for services for which the costs of direct care staffing are the primary driver of overall cost increases, consistent with the cost-of-living adjustment applied to the minimum wage under Title 26, section 664, subsection 1. The department shall:

(i) Apply this adjustment to services provided by essential support workers as defined in section 7401, subsection 3; and

(ii) For any services for which the department applies an adjustment equal to the increase in minimum wage, apply the adjustment to the reimbursement rate between 6 and 12 months after the minimum wage increase goes into effect.

(c) Publish, by January 1st, on the department's publicly accessible website, based on available data, the estimated cost of the cost-of-living adjustments to be applied in the subsequent fiscal year. [PL 2025, c. 664, §3 (AMD).]

[PL 2025, c. 664, §3 (AMD).]

3. Rulemaking for establishment of payment model and reimbursement methodology. The department shall:

A. Conduct rulemaking to establish a payment model and reimbursement methodology for a new MaineCare section of policy or specific new service within a MaineCare section of policy or make changes to an existing payment model or reimbursement methodology. Rules adopted pursuant to this subsection must describe the payment model and reimbursement methodology but do not need to include codes, modifiers, reimbursement rates or any other information that the department includes in its centralized master index of rates posted on its publicly accessible website pursuant to subsection 7. Rulemaking is not required for the addition or deletion of billing codes or to specify rates for specific billing codes if there is no change in the overall payment model or reimbursement methodology and the rates are posted in accordance with this section. Changes in rates resulting from application of the reimbursement methodology, including adjustments as a result of changes in the value or amount of components of the reimbursement methodology or changes to billing codes, do not require rulemaking as long as the reimbursement methodology remains the same; and [PL 2025, c. 664, §3 (AMD).]

B. For services the department benchmarks to Medicare or other available payer rates for reimbursement, adopt a rule specifying the percentage, frequency of benchmark updates for alternate payer sources and other aspects of the benchmark methodology. Additional rulemaking is not required for rate changes tied to the adopted benchmark methodology, or for the addition of new billing codes, unless the department changes the benchmarking percentage or methodology. [PL 2025, c. 664, §3 (AMD).]

C. [PL 2025, c. 664, §3 (RP).]

Rulemaking is not required for rate adjustments tied to annual cost-of-living adjustment increases unless the department changes the cost-of-living adjustment methodology.

Rules adopted pursuant to this subsection may incorporate by reference any part of a code, standard, rule, regulation or schedule or any other source considered appropriate by the department. Notwithstanding any provision of law to the contrary, rules adopted pursuant to this subsection are not subject to Title 5, section 8056, subsection 2-A, as long as the rules identify the incorporated matter by title or source, as appropriate.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A unless rules to adopt MaineCare reimbursement rates are designated as major substantive rules in another section of law.

[PL 2025, c. 664, §3 (AMD).]

4. Funding. The department may use funds from the MaineCare Stabilization Fund established in section 3174-KK in order to fund the reimbursement adjustments made in accordance with this section when funding may be needed in addition to appropriations associated with separate initiatives. Adjustments to reimbursements made using the MaineCare Stabilization Fund are not considered permanent until ongoing appropriations and allocations funding the adjustments are made.

[PL 2025, c. 664, §3 (AMD).]

5. MaineCare Rate Reform Expert Technical Advisory Panel. The MaineCare Rate Reform Expert Technical Advisory Panel, referred to in this subsection as "the panel," is established for the purpose of advising the commissioner by providing technical, nonpartisan, 3rd-party expertise to inform the department's planned schedule and actions on rate assumptions, payment models and other related technical matters. The panel may not propose rates or methodologies. The commissioner or the commissioner's designee shall serve as chair.

A. The panel includes the following members:

(1) A representative from the Maine Health Data Organization;

(2) A representative from the Department of Professional and Financial Regulation, Bureau of Insurance;

(4) A representative from the department's division of licensing and certification;

(5) A representative from the Office of Affordable Health Care;

(6) A representative from the Department of Labor; and

(7) A representative from the Department of Administrative and Financial Services. [PL 2025, c. 664, §3 (AMD).]

B. The panel shall:

(1) Review annual schedules of MaineCare sections of policy scheduled for rate determinations under section 3173-J, subsection 2, paragraph A;

(2) Review common assumptions and recommendations from rate determinations under subsection 2, paragraph C;

(3) Review findings from benchmarking reports to inform the appropriateness of MaineCare reimbursement levels across services; and

(4) Advise on other related technical matters, as appropriate. [PL 2025, c. 664, §3 (AMD).]

C. The panel shall meet at least once per year and as otherwise convened by the commissioner. Meetings of the panel are public, and the panel shall provide public notice of each meeting and an opportunity for public comment. [PL 2025, c. 664, §3 (AMD).]

[PL 2025, c. 664, §3 (AMD).]

6. MaineCare Advisory Committee. The MaineCare Advisory Committee, required by 42 Code of Federal Regulations, Section 431.12 and further described in department rules, and referred to in this subsection as "the committee," shall participate in the department's rate-setting system in accordance with this subsection.

A. The committee must include a permanent rate system subcommittee that allows broad participation by the full spectrum of types of MaineCare providers. Participation in the rate system subcommittee may not be limited by number or type of stakeholder in order to allow for participation by any stakeholder affected by MaineCare reimbursement policy and interested in participating in the work of the subcommittee. [PL 2021, c. 639, §2 (NEW).]

B. At each meeting of the committee or rate system subcommittee, if requested by the chair of the committee or rate system subcommittee, the department shall provide updates on the department's planned and completed activities under this section for discussion and advisement, including, but not limited to, the following:

(1) Schedule and status of rate determination, planned and in progress, by MaineCare section of policy;

(2) Status of and plans for comprehensive benchmarking studies; and

(3) Contemplated rulemaking to establish payment models and reimbursement methodologies resulting from rate determination processes. [PL 2025, c. 664, §3 (AMD).]

C. The rate system subcommittee may formulate and present recommendations to the committee pertaining to the department's activities under this section. [PL 2021, c. 639, §2 (NEW).]

[PL 2025, c. 664, §3 (AMD).]

7. Index of MaineCare rates by service code; publicly accessible website. The department shall maintain and annually update a centralized master index of rates by service code and post this index on its publicly accessible website. The index must contain the following:

A. The service code, including any modifiers that affect reimbursement; [PL 2021, c. 639, §2 (NEW).]

B. The current year rate; [PL 2021, c. 639, §2 (NEW).]

C. The source for the rate, including, but not limited to, Medicare or alternate payer benchmark, rate study or other source, and the year and the author of the review, study or report that justified the rate; [PL 2021, c. 639, §2 (NEW).]

D. The year the base rate was last updated prior to the application of any subsequent cost-of-living adjustments; [PL 2021, c. 639, §2 (NEW).]

E. Whether the rate is subject to cost-of-living adjustments and, if so, the identity of the benchmark index; [PL 2021, c. 639, §2 (NEW).]

F. The section of MaineCare policy pursuant to which the rate was adopted; and [PL 2021, c. 639, §2 (NEW).]

G. The target date for the next rate review. [PL 2021, c. 639, §2 (NEW).]

In addition to the index, the department shall post on its publicly accessible website all rate studies, benchmark reports and other materials used by the department to develop the rates and payment models. [PL 2021, c. 639, §2 (NEW).]

8. Notice prior to implementation. For planned rate changes that do not require rulemaking as described in subsection 3, the department shall provide notice prior to implementation, of no less than 30 calendar days for cost-of-living adjustments and no less than 7 calendar days for Medicare fee schedule changes or the addition of new service codes, to stakeholders who request to receive such notice.

[PL 2021, c. 639, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 639, §2 (NEW). PL 2023, c. 238, §1 (AMD). PL 2025, c. 664, §3 (AMD).

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