EXECUTIVE SUMMARY

The 2020 Legislative End of Session Report provides a snapshot of the key bills that the MaineHealth Government Affairs Team tracked and worked on during the Second "Short" Session of the 129th Maine Legislature. Since the Session began in January, we have tracked, analyzed, and weighed in on over 150 bills and amendments that are of interest to MaineHealth and its local health systems. The Government Affairs Team advanced many important initiatives, including increasing reimbursement rates for critical behavioral health services, and amended or defeated bills that would have negatively impacted our ability to provide access to high quality care in our communities.

The Second Session was cut short abruptly due to the COVID-19 pandemic. With hundreds of outstanding bills, the Legislature wrapped up its work in days by passing a significantly pared down supplemental budget and a handful of other priority legislation. The remaining legislation not addressed was carried over to be considered if and when the Governor calls the Legislature back for a special session; although, given the economic uncertainty and ongoing public health crisis, many expect that if the Legislature is called back, it will only address legislation that seeks to address any budgetary shortfalls caused by the economic downturn.

Prior to adjourning, the Legislature approved a $73 million Supplemental Budget, which was $52 million less than the Governor originally proposed prior to the COVID-19 pandemic. The supplemental budget dedicated $17.4 million to the Budget Stabilization Fund to prepare for the possibility of future COVID-19 related expenses or a continued economic downturn and it increased funding to help treat and prevent the spread of COVID-19, including $1 million to increase lab testing capacity and also stipends to help recruit and retain public health nurses. Importantly, the supplemental budget included rate increases for key behavioral health services, including outpatient psychiatry.

The Government Affairs Team compiled the following overview of key bills addressed this Session that are relevant to MaineHealth and its members. Please look for a supplemental End of Session Report should the Legislature return this year.

The Government Affairs Team would also like to thank you for the assistance you provided in analyzing legislation, crafting talking points, drafting testimony, and, most importantly, for reaching out to share MaineHealth's concerns with legislators. Your involvement was critical in ensuring that we spoke with a strong and unified voice.

Note: Unless otherwise specified in the bill text, a bill becomes law 90 days after the end of session – or June 16, 2020. A bill can become law immediately if the Legislature, by a 2/3 vote of each chamber, declares that an emergency exists. An emergency law takes effect on the date the Governor signs it unless otherwise specified in its text. If a bill is vetoed, it will become law if the Legislature overrides the veto. If the Governor does not sign a bill that has been enacted by the Legislature, it becomes law without her signature if not returned to the Legislature within 10 days. When the Legislature adjourns before the 10-day time limit has expired, a bill on which the Governor has not acted prior to the adjournment of the session becomes law unless the Governor vetoes it within 3 days after that Legislature reconvenes. If there is not another meeting of that particular Legislature lasting more than 3 days, the bill does not become law.

The Legislative Session formally adjourned on March 17, 2020. Unless specifically noted below the effective date for all legislation passed into law is **June 16, 2020.**

PUBLIC LAWS

LD 1900 – An Act to Amend the Laws Governing Motor Vehicle Child Restraint Systems to Allow Certain Exceptions
(Sen. Scott Cyrway)
MaineHealth Position: MaineHealth-Sponsored Legislation

Public Law, Chapter 577 closes a gap in the child car seat law passed by the Legislature last year and allows medically mandated use of car beds, or medically necessary front facing positioning.

In January, Sarah Calder testified before the Joint Standing Committee on Transportation and shared that the Barbara Bush Children's Hospital at Maine Medical Center discharges approximately 40 patients every year that require car beds to travel safely from the hospital.

LD 1934 – An Act Regarding Prior Authorization for Medication-assisted Treatment for Opioid Use Disorder under the MaineCare Program
(Rep. Holly Stover)
MaineHealth Position: MaineHealth-Sponsored Legislation

Public Law, Chapter 645 prohibits MaineCare from requiring prior authorization for medication-assisted treatment (MAT) for Opioid Use Disorder. This law mirrors legislation that was passed by the Legislature last Session prohibiting commercial carriers from requiring prior authorization for MAT.

In January, Katie Fullam Harris testified before the Joint Standing committee on Health and Human Services in support of this legislation and shared that the MaineCare prior authorization and continuing authorization processes create expensive, unnecessary and sometimes dangerous barriers to treatment for patients with Opioid Use Disorder.

LD 227 – An Act to Strengthen Maine's Public Health Infrastructure
(Rep. Anne Perry)
MaineHealth Position: Neither For Nor Against

Resolve, Chapter 114 directs the Department of Health and Human Services to use a process that includes stakeholder participation, including from the Maine Public Health Association, to review the State's public health infrastructure and develop recommendations to strengthen the efficiency and effectiveness of public health service delivery in Maine. The recommendations must be reported to the Joint Standing Committee on Health and Human Services by January 1, 2021.

Working with Dr. Dora Mills, Chief Health Improvement Officer at MaineHealth, Sarah Calder, last year testified before the Committee and asked that it allow the Department of Health and Human Services time to fill critical public health leadership positions, complete the process of re-accreditation (currently underway; due in 2021), and re-energize the existing formal system for community engagement before taking action on this legislation.

LD 775 – An Act to Expand Community Support Services for Certain Adult Members of the MaineCare Program
(Rep. Lori Gramlich)
MaineHealth Position: Support

After being held by the Governor last session, the sponsor of LD 775 sought a compromise that was ultimately approved by the Governor. Resolve, Chapter 117 authorizes the Department of Health and Human Services (DHHS) to amend its rule related to community support services (Section 17). The Resolve also requires DHHS to report by January 15, 2021 to the Joint Standing Committee on Health and Human Services if DHHS has amended the rule and data regarding eligibility criteria and the number of applicants for community support services under the rule, including the number initially accepted and rejected and, of those rejected, how many appealed and were accepted after appeal.

The current Section 17 rules restrict services to people with specific mental health diagnoses or who are at imminent risk of homelessness, hospitalization, or incarceration due to their mental illness, or have been recently discharged from residential treatment. If a client does not meet the current, strict eligibility criteria for Section 17 Community Supports, services may not be authorized beyond 30 days, making developing a realistic treatment plan extremely challenging.

In April 2019, Sara Schmalz, LCSW and program manager at Maine Behavioral Healthcare, testified before the Joint Standing Committee on Health and Human Services in support of the original legislation.

LD 1809 – Resolve, To Increase Funding for Evidence-based Therapies for Treating Emotional and Behavioral Problems in Children
(Rep. Colleen Madigan)
MaineHealth Position: Support

Resolve, Chapter 110 continues a 20% rate increase that was approved by the 128th Legislature for Multisystemic Therapy (MST), which is an intensive, family-focused treatment for youth who demonstrate problem behaviors and who are particularly at risk for out-of-home placements, such as juvenile detention facilities or residential treatment programs. Though the Department of Health and Human Services indicated that it was able to absorb the cost of continuing the rate and the Legislature approved this legislation last year, it was held by the Governor and became law without her signature in January of this year when the Legislature returned.

In May 2019, Sarah Calder, Director of Government Affairs at MaineHealth, testified before the Joint Standing Committee on Health and Human Services in support to this legislation. She shared that if this rate were not continued, Maine Behavioral Healthcare would be forced to close its MST program.

> Maine Behavioral Healthcare hosts a legislative luncheon at the State House to educate legislators about the desperate need to increase reimbursement rates for behavioral health services.

LD 1838 – Resolve, Requiring the Department of Health and Human Services to Examine Options for Upper Payment Limit Adjustments for MaineCare Services
(Rep. Patricia Hymanson)
MaineHealth Position: Support

Resolve, Chapter 111 directs the Department of Health and Human Services to contract with a 3rd party to examine options to increase funding for behavioral health services provided under MaineCare that are limited by the Clinic Upper Payment Limit. The Upper Payment Limit restricts Medicaid payments to no more than what would have been paid by Medicare. This legislation was held by the Governor last year and became law without her signature when the Legislature returned this January.

LD 1928 – An Act to Prohibit Health Insurance Carriers from Retroactively Reducing Payment on Clean Claims Submitted by Pharmacies
(Sen. Nathan Libby)
MaineHealth Position: Support

Beginning on or after January 1, 2021, Public Law, Chapter 643 prohibits a contract, including a prescription drug plan, between a carrier and a pharmacy from containing a provision that intends to directly or indirectly charge the pharmacy or hold the pharmacy responsible for any fee related to a claim that is not apparent at the time the carrier processes the claim, that is not reported on the remittance advice, or after the initial claim is adjudicated.

LD 1948 – An Act to Prohibit, Except in Emergency Situations, the Performance without Consent of Pelvic Examinations on Unconscious or Anesthetized Patients
(Rep. Victoria Doudera)
MaineHealth Position: Did Not Testify

Public Law, Chapter 602 will require informed consent for pelvic exams performed on anesthetized patients if the exam is not related to the procedure. The law will require both oral and written informed consent for pelvic, rectal or prostate exams.

A standardized consent form is being updated to be used across the MaineHealth system.

LD 1974 – An Act to Promote Telehealth
(Sen. Geoff Gratwick)
MaineHealth Position: Support

Public Law, Chapter 649 directs the Department of Health and Human Services to amend the MaineCare Benefits Manual to reimburse for targeted case management services delivered through telehealth by September 30, 2020. Additionally, it allows carriers to provide coverage for telehealth services that is consistent with the Medicare coverage policy for interprofessional Internet consultations.

LD 1986 – An Act to Clarify the Law Protecting Job Applicants from Identity Theft
(Sen. Shenna Bellows)
MaineHealth Position: Did Not Testify

Public Law, Chapter 567 prohibits an employer beginning January 1, 2020 from requesting a social security number on an employment application from a prospective employee except as required by federal law, or for the purposes of substance use testing, or a preemployment background check. An employer may request a social security number after the employee has been hired.

LD 2007 – An Act to Enact the Made for Maine Health Coverage Act and Improve Health Choices in Maine
(Governor's Bill)
MaineHealth Position: Did Not Testify

Public Law, Chapter 653 creates a "State Based Exchange," requires carriers to provide coverage of certain primary care and behavioral health visits without cost-sharing, merges the market for individual health plans and small group health plans. The law also caps the amount the Maine Guaranteed Access Reinsurance Association (MGARA) would reimburse carriers (importantly, not providers) for high cost cases at 200% of Medicare.

LD 2096 – An Act to Save Lives by Capping the Out-of-pocket Cost of Certain Medications
(Rep. Sara Gideon)
MaineHealth Position: Did Not Testify

Public Law, Chapter 666 caps the out-of-pocket costs at $35 for a 30-day supply of insulin. It also authorizes a pharmacist to dispense emergency refills of insulin for individuals who have evidence of a previous prescription. This provision, referred to as Kevin's Law, has been enacted in numerous other states. This law becomes effective immediately.

LD 2105 – An Act to Protect Consumers from Surprise Emergency Medical Bills
(Rep. Sara Gideon)
MaineHealth Position: Did Not Testify

Public Law, Chapter 668 expands Maine's current surprise billing, or balance billing, law to include emergency services. Importantly, this law allows for the piloted use of an independent dispute resolution process when determining if a surprise bill for emergency services rendered by out-of-network emergency department physicians (example, BlueWater Health) should be paid at the in-network or out-of-network rate. This law becomes effective immediately.

LD 2111 – An Act to Establish Patient Protections in Billing for Health Care
(Sen. Ned Claxton)
MaineHealth Position: No Position on Amended Version

Public Law, Chapter 670 requires: (1) providers to disclose to a Medicare patient that they are on observation status and that they may meet with a financial representative to discuss the potential impact; (2) providers to disclose if they are out-of-network upon referral and before a scheduled appointment, and; (3) prohibit patient transfer fees and require providers to disclose medical record transfer fees. This does not prohibit new office visit fees. This law becomes effective immediately.

The Maine Hospital Association represented the hospital community in negotiating for this amendment. The original legislation would have required the disclosure of facility fees and that patients be billed for services within 6 months, otherwise the patient would not responsible for the bill.

HELD BY THE GOVERNOR

(If the Governor does not sign a bill that has been enacted by the Legislature, it becomes law without her signature if not returned to the Legislature within 10 days. When the Legislature adjourns before the 10-day time limit has expired, a bill on which the Governor has not acted prior to the adjournment of the session becomes law unless the Governor vetoes it within 3 days after that Legislature reconvenes. If there is not another meeting of that particular Legislature lasting more than 3 days, the bill does not become law.)

LD 232 – An Act to Change the Process by Which Designated Nonstate Mental Health Institutions Petition the District Court to Admit Certain Patients to a Progressive Treatment Program
(Rep. Anne Perry)
MaineHealth Position: MaineHealth-Sponsored Legislation

The only bill held by the Governor this Session, LD 232 directs the Department of Health and Human Services to convene a stakeholder group to review the progressive treatment program, to increase participation of non-state mental health institutions, and to review for efficiency and effectiveness the processes by which a person may be involuntarily admitted to a psychiatric hospital or receive court-ordered community treatment pursuant.

Last year, Dr. Rob McCarley, Vice President of Medical Affairs for Maine Behavioral Healthcare, joined the Maine Hospital Association and the Maine Association of Psychiatric Physicians in testifying in support of this legislation when it was before the Joint Standing Committee on Health and Human Services Committee.

If the Legislature returns for a special session, the Governor will have three days to act on this bill.

DEFEATED LEGISLATION

LD 231 – An Act to Improve Public Health by Maximizing Federal Funding Opportunities
(Rep. Anne Perry)
MaineHealth Position: Neither For Nor Against

In January, the Joint Standing Committee on Health and Human Services voted Ought Not to Pass on LD 231, which would have designated the University of Southern Maine's Edmund S. Muskie School of Public Service as an agent of the Department of Health and Human Services for the purpose of applying for federal funds to support public health research and programming.

Sarah Calder last year testified Neither For Nor Against this legislation and urged the Committee to consider amending the legislation to create a work group of collaborative partners that can put forward recommendations that assist the Department of Health and Human Services in building the infrastructure needed to pursue and secure available federal resources.

LD 1950 – An Act to Advance Palliative Care Utilization in the State
(Rep. Margaret Craven)
MaineHealth Position: Support

In March, the Joint Standing Committee on Health and Human Services voted Ought Not to Pass on LD 1950, which directed the Department of Health and Human Services to adopt rules that support and standardize the delivery of palliative care, among other things.

Sarah Calder testified in January in support of the intent of this legislation and shared that there is a significant need to expand palliative care services in the State, particularly in rural areas. She

also shared that the current MaineCare reimbursement rate is not sufficient to maintain or expand services throughout the state.

LD 1951 – An Act to Assist Persons with Disabilities Who Are Subject to Pill Count Requirements
(Rep. Colleen Madigan)
MaineHealth Position: Did Not Testify

In March, the Joint Standing Committee on Health and Human Services voted Ought Not to Pass on LD 1951, which would have required prescribers provide transportation to disabled patients when subject to a pill count.

While MaineHealth did not take a formal position on the bill, Katie Fullam Harris shared with the Committee that random pill counts for patients on long term opioids (not for acute pain) is the standard of care and that is imperative that we do everything we can to prevent diversion, and random pill counts are one such mechanism.

CARRIED OVER LEGISLATION

LD 1856 – Resolve, To Support Individuals with Acute Mental Health Needs
(Rep. Anne-Marie Mastraccio)
MaineHealth Position: MaineHealth-Sponsored Legislation

In March, the Joint Standing Committee on Health and Human Services approved MaineHealth-sponsored legislation that would require the Department of Health and Human Services to provide a MaineCare rate for Southern Maine Health Care's psychiatric beds in Sanford that would cover the cost of care.

The legislation was carried over to be considered by the Legislature should it reconvene for a special session and, if approved, will be placed on the Special Appropriations Table for funding where will it be considered along with numerous other bills.

In February, representatives from Southern Maine Health Care and Maine Behavioral Healthcare testified in support of the legislation. The Alliance for Mental Health and Addiction Services, the Maine Medical Association, and the Maine Hospital Association also joined in support.

LD 1418 – An Act to Address Maine's Shortage of Behavioral Health Services for Minors
(Rep. Jay McCreight)
MaineHealth Position: Support

Legislation that requires the Department of Health and Human Services to collect data on the number and diagnoses of children with behavioral health needs who are stuck in hospital emergency departments for longer than 24 hours and the reason for the extended stay was carried over to be considered by the Legislature should it reconvene for a special session. The legislation also requires DHHS to post quarterly the deidentified data online.

In April 2019, Sarah Calder testified before the Joint Standing Committee on Health and Human Services in support of this legislation and highlighted not only the challenges of extended stays in MaineHealth's emergency departments, but also the number of children with behavioral health needs who are staying in psychiatric inpatient beds for months after completing acute treatment because they are waiting for transfer to residential treatment facilities or other services.

LD 1937 – An Act to Provide Timely Access to Behavioral Health Services for Maine Children and To Address Trauma and the Impacts of the Opioid Crisis
(Rep. Lori Gramlich)
MaineHealth Position: Support

Prior to adjourning, the Legislature sent LD 1937 to the Special Appropriations Table to be considered should the Legislature return for a special session. If approved, this legislation would increase the reimbursement rate for children's residential treatment services as well as Home and Community Treatment.

In January, Sarah Calder testified before the Joint Standing Committee on Health and Human Services in support of this legislation and shared that at a given time, up to 50% of psychiatric inpatient beds for children and adolescents within MaineHealth are occupied by those who have completed acute treatment, and who are waiting for transfer to residential treatment facilities or other services. As a result, these are beds that are not available to those waiting in emergency departments and elsewhere.

LD 1938 – An Act Concerning MaineCare Coverage for Donor Breast Milk
(Rep. Margaret Craven)
MaineHealth Position: Support

Prior to adjourning, the Legislature sent LD 1938 to the Special Appropriations Table to be considered when the Legislature returns for a special session. LD 1938 would require MaineCare cover medically necessary donor breast milk, similar to the coverage provided by TRICARE. If approved, Maine will join at least five other states that have mandated their state Medicaid programs cover this benefit.

In January, Sharon Craig Economides, Program Manager of Lactation Consultation and Childbirth Education at Maine Medical Center, testified before the Joint Standing Committee on Health and Human Services in support of this legislation.

LD 1940 – Resolve, Directing the Department of Health and Human Services to Increase MaineCare Reimbursement Rates for Targeted Case Management Services to Reflect Inflation
(Rep. Michele Meyer)
MaineHealth Position: Support

In February, the Joint Standing Committee on Health and Human Services voted along party lines on legislation that would increase the reimbursement rate for Targeted Case Management. LD 1940 was carried over to be considered by the Legislature should it reconvene for a special session. Importantly, if approved, it will be placed on the Special Appropriations Table for funding where it will be considered along with numerous other bills.

Sarah Calder testified in January in support of this legislation. Maine Behavioral Healthcare (MBH) provides Targeted Case Management to approximately 60 adults with developmental disorders through the Center for Autism and Developmental Disorders. Sarah shared with the HHS Committee that there are over 40,000 people in Maine affected by autism or intellectual disability, but emotional and behavioral health services for this population and the reimbursement rates to support these services have not kept up with demand. Targeted case management is one such example and MBH continues to absorb a loss every year to maintain this essential service.

LD 1961 – An Act to Establish the Trust for a Healthy Maine
(Rep. Dennis Keschl)
MaineHealth Position: Neither For Nor Against

Legislation that would create a trust fund for the payments from the Master Settlement Agreement with tobacco companies was carried over to be considered by the Legislature should it reconvene for a special session.

In January, Sarah Calder testified Neither for Nor Against the legislation when it was before the Joint Standing Committee on Health and Human Services. While MaineHealth is supportive of funding tobacco prevention and control at the US Centers for Disease Control and Prevention recommended level, Sarah expressed concern that similar trusts have not been effective in other states and that this bill would leave a large hole in the MaineCare budget.

LD 2106 – An Act Regarding Prior Authorizations for Prescription Drugs
(Sen. Geoff Gratwick)
MaineHealth Position: Support

In March, the Joint Standing Committee on Health Coverage, Insurance and Financial Services voted unanimously in support of amended legislation regarding the prior authorization process for prescription medication. The amended version requires carriers beginning January 1, 2022 to provide real-time information related to cost-sharing information, formulary alternatives, and prior authorization requirements, among other things.

The legislation was carried over should the Legislature reconvene for a special session.

Sara Beth Howe, Director of Specialty Pharmacy, testifies in support of LD 2106 before the Joint Standing Committee on Health Coverage, Insurance and Financial Services.

Sara Beth Howe, Director of Specialty Pharmacy, testified in March in support of this legislation and shared that it will create a more efficient workflow through electronic means which will relieve the administrative burden for prescribers and ensure faster access to medication for patients.

LD 2110 – An Act to Lower Health Care Costs – President Jackson
(Sen. Troy Jackson)
MaineHealth Position: Opposed as Originally Drafted

Prior to adjourning, the Legislature sent the significantly revised version of LD 2110 to the Special Appropriations Table to be considered should the Legislature reconvene for a special session.

Maine Medical Center hosts a legislative breakfast to share its legislative priorities and the various initiatives MaineHealth has enacted to control costs for patients.

The original version of LD 2110 would have set arbitrary cost growth caps for health care, among other things. Instead, the amended version creates an office within the Legislature that will track, analyze, and report upon cost information and quality as it relates to changes in cost. There are no mandates upon providers, and data will be acquired from publicly available sources. Such analyses are not currently available to the Legislature, and so the hospital community was comfortable with this amendment.

In February, Katie Fullam Harris joined the Maine Hospital Association and Northern Light in testifying before the Joint Standing Committee on Health Coverage, Insurance and Financial Services in opposition to the original legislation. She shared with the Committee the various initiatives MaineHealth has enacted to control costs for patients, but that increasing regulation is not an effective means to address the actual drivers of cost.

LD 402 – An Act to Restore Overtime Protections for Maine Workers
(Rep. Ryan Tipping)
MaineHealth Position: Did Not Testify

The Joint Standing Committee on Labor and Housing carried over LD 402, which would change Maine's current formula that determines the salary threshold below which overtime must be paid and increase the threshold to over $55,000. Should the Legislature reconvene, we anticipate that three versions of the legislation will be reported out of the Committee.

It is important to note that the most recent version of the legislation would result in an approximately $5.8 million impact to MaineHealth.

LD 1529 – An Concerning Nondisclosure Agreements in Employment
(Rep. Thomas Harnett)
MaineHealth Position: Did Not Testify

Prior to adjourning, the Joint Standing Committee on Labor and Housing Labor Committee voted along party lines on LD 1529 which places limitations on employers' use of nondisclosure agreements. The legislation was carried over should the Legislature reconvene for a special session.

LD 1693 – An Act to Enhance Enforcement of Employment Laws
(Sen. Troy Jackson)
MaineHealth Position: Did Not Testify

The Joint Standing Committee on Labor and Housing carried over LD 1693, which would authorize private persons, acting in the public interest, to enforce the laws governing employment practices and prohibit unfair discrimination in the workplace.

LD 1822 – An Act to Protect Access to Services for Adults with Serious and Persistent Mental Illness
(Rep. Drew Gattine)
MaineHealth Position: Did Not Testify

Legislation that would allow adults with serious and persistent mental illness to bring a private right of action against a provider, with a contract with the Department of Health and Human Services, if the provider denies the individual access to services, was carried over to be considered by the Legislature should it reconvene for a special session.
It is the understanding of MaineHealth that this bill was introduced in an attempt to meet the requirements of the Augusta Mental Health Institute (AMHI) Consent Decree with the ultimate intent to retire the Consent Decree. Disability Rights Maine, the Department of Health and Human Services (DHHS), Attorney General Aaron Frey, and the AMHI Consent Decree court master, former Chief Justice Daniel Wathen, all support this legislation.

Since the initial hearing in January, MaineHealth and other community behavioral health providers have met with DHHS, Disability Rights, and Chief Justice Wathen numerous times to share our significant concerns with the legislation as it makes no investments in the community behavioral health system to ensure that providers have sufficient resources to provide access. In addition, the potential cost of defending private rights of action could be significant and add unnecessary expense in the healthcare system. A compromise had not yet been agreed to when the Legislature adjourned in March.

For questions related to this report, please contact:

Sarah Calder
Director of Government Affairs
Affairs
(207) 661-7575 – Office
Scalder@mainehealth.org

Katie Fullam Harris
Senior Vice President of Government

(207) 661-7542 (Office)
harrik2@mainehealth.org