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An Act To Establish the COVID-19 Patient Bill of Rights

(EMERGENCY)

Received by the Secretary of the Senate on January 11, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Speaker FECTEAU of Biddeford.

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Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the spread of the novel coronavirus disease referred to as COVID-19 has created a public health emergency; and

Whereas, in response to COVID-19, the World Health Organization has declared a pandemic, the President of the United States has declared a national emergency and the Governor of Maine has declared a civil state of emergency; and

Whereas, in response to COVID-19, the Governor of Maine has also proclaimed an insurance emergency pursuant to the Maine Revised Statutes, Title 24-A, section 471 and, pursuant to that proclamation, the Superintendent of Insurance has issued orders relating to health insurance coverage for COVID-19 testing and immunization during the civil state of emergency; and

Whereas, in response to COVID-19, the Governor of Maine has also issued executive orders relating to the ability of Maine residents to ensure continued access to health care services through telehealth and to necessary prescription drugs; and

Whereas, it is important to maintain these important consumer protections related to health insurance coverage once the civil state of emergency expires; and

Whereas, the purpose of this legislation is to ensure that those consumer protections are codified in state law; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 24-A MRSA §4320-P is enacted to read:

§4320-P. Coverage for health care services for COVID-19

Notwithstanding any other requirements of this Title to the contrary, a carrier offering a health plan in this State shall provide, at a minimum, coverage as required by this section for health care services for coronavirus disease 2019, referred to in this section as "COVID-19."

1. Testing. A carrier shall provide coverage for screening and testing for COVID-19 as follows.

A. A carrier shall provide coverage for screening and testing for COVID-19 that is:

(1) Medically necessary as determined by a health care provider;

(2) Performed in accordance with any written standing order issued by the state epidemiologist within the Department of Health and Human Services, Maine Center for Disease Control and Prevention; or

(3) Required by an employer, institution of higher education or public or private school, notwithstanding any requirements of any written standing order issued by the state epidemiologist.

B. A carrier may not impose any deductible, copayment, coinsurance or other cost-sharing requirement.

C. A carrier may not make coverage without cost sharing as required by paragraph B dependent on any prior authorization requirement.

D. A carrier may not make coverage without cost sharing as required by paragraph B dependent on the use of a provider in a carrier's network unless an enrollee is offered screening and testing by a network provider without additional delay and the enrollee chooses instead to obtain screening from an out-of-network provider or to be tested by an out-of-network laboratory.

2. Immunization; COVID-19 vaccines. A carrier shall provide coverage for the costs and all associated costs of administration of COVID-19 vaccines as follows.

A. A carrier shall provide coverage for any COVID-19 vaccine licensed by the United States Food and Drug Administration that is recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration to a person 16 years of age or older according to a valid prescription or a written standing order from a practitioner authorized under the laws of this State to issue an order, a prescription or a protocol to a person 16 years of age or older for COVID-19 vaccines licensed by the United States Food and Drug Administration.

B. A carrier may not impose any deductible, copayment, coinsurance or other cost-sharing requirement.

C. A carrier may not make coverage without cost sharing as required by paragraph B dependent on any prior authorization requirement.

D. A carrier may not make coverage without cost sharing as required by paragraph B dependent on the use of a provider in a carrier's network unless an enrollee is offered immunization by a network provider without additional delay and the enrollee chooses instead to obtain immunization from an out-of-network provider.

3. Rules. The superintendent may adopt rules to implement and administer this section to align with any applicable federal requirements. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

PART B

Sec. B-1. 32 MRSA §2213 is enacted to read:

§2213. Prescriptions during a state of emergency

An individual licensed under this chapter whose scope of practice includes prescribing medication may prescribe to a patient a supply of a prescription drug for an extended period of time, not to exceed a 180-day supply, during a state of emergency declared by the Governor in accordance with Title 37-B, section 742, except for a drug prescribed in accordance with section 2210.

Sec. B-2. 32 MRSA §2600-G is enacted to read:

§2600-G. Prescriptions during a state of emergency

An individual licensed under this chapter whose scope of practice includes prescribing medication may prescribe to a patient a supply of a prescription drug for an extended period of time, not to exceed a 180-day supply, during a state of emergency declared by the Governor in accordance with Title 37-B, section 742, except for a drug prescribed in accordance with section 2600-C.

Sec. B-3. 32 MRSA §3300-J is enacted to read:

§3300-J. Prescriptions during a state of emergency

An individual licensed under this chapter whose scope of practice includes prescribing medication may prescribe to a patient a supply of a prescription drug for an extended period of time, not to exceed a 180-day supply, during a state of emergency declared by the Governor in accordance with Title 37-B, section 742, except for a drug prescribed in accordance with section 3300-F.

Sec. B-4. 32 MRSA §3658 is enacted to read:

§3658. Prescriptions during a state of emergency

An individual licensed under this chapter whose scope of practice includes prescribing medication may prescribe to a patient a supply of a prescription drug for an extended period of time, not to exceed a 180-day supply, during a state of emergency declared by the Governor in accordance with Title 37-B, section 742, except for a drug prescribed in accordance with section 3657.

Sec. B-5. 32 MRSA §13786-E is enacted to read:

§13786-E. Prescriptions during a state of emergency

A pharmacist may dispense to a patient a supply of a prescription drug for an extended period of time, not to exceed a 180-day supply, during a state of emergency declared by the Governor in accordance with Title 37-B, section 742, unless the prescription drug order is prescribed in accordance with section 2210, 2600-C, 3300-F, 3657 or 18308.

Sec. B-6. 32 MRSA §13831, sub-§2-A is enacted to read:

2-A. Administration of COVID-19 vaccines. A pharmacist licensed in this State who meets the qualifications and requirements of section 13832 and rules adopted by the board, in addition to influenza vaccines under subsection 1 and other vaccines under subsection 2, may administer coronavirus disease 2019, or COVID-19, vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration to a person 16 years of age or older according to a valid prescription when the person has an existing primary care physician or other existing relationship with a nurse practitioner or an authorized practitioner in this State. A pharmacist may administer COVID-19 vaccines licensed by the United States Food and Drug Administration that are outside the guidelines recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, to a person 16 years of age or older according to a valid prescription when the person has an existing primary care physician or other existing relationship with a nurse practitioner or an authorized practitioner in this State if the

prescription specifically states that the vaccine is medically necessary. When the person does not have an existing relationship with a primary care physician, nurse practitioner or other practitioner in this State, the pharmacist may proceed to administer according to a treatment protocol established by an authorized practitioner or a written standing order from a practitioner authorized under the laws of this State to issue an order, a prescription or a protocol to a person 16 years of age or older for COVID-19 vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices, or successor organization, for administration.

Sec. B-7. 32 MRSA §18309 is enacted to read:

§18309. Prescriptions during a state of emergency

An individual licensed under this chapter whose scope of practice includes prescribing medication may prescribe to a patient a supply of a prescription drug for an extended period of time, not to exceed a 180-day supply, during a state of emergency declared by the Governor in accordance with Title 37-B, section 742, except for a drug prescribed in accordance with section 18308.

PART C

Sec. C-1. 24 MRSA §2904, sub-§1, ¶A, as amended by PL 2019, c. 289, §1, is further amended to read:

A. A licensed health care practitioner who voluntarily, without the expectation or receipt of monetary or other compensation either directly or indirectly, provides professional services, including services provided through telehealth as defined in Title 24-A, section 4316, subsection 1, paragraph ~~E~~ C, within the scope of that health care practitioner's licensure:

(1) To a nonprofit organization;

(2) To an agency of the State or any political subdivision of the State;

(3) To members or recipients of services of a nonprofit organization or state or local agency;

(4) To support the State's response to a public health threat as defined in Title 22, section 801, subsection 10;

(5) To support the State's response to an extreme public health emergency as defined in Title 22, section 801, subsection 4-A; or

(6) To support the State's response to a disaster as defined in Title 37-B, section 703, subsection 2;

Sec. C-2. 24-A MRSA §4316, sub-§1, ¶C, as enacted by PL 2019, c. 289, §2, is amended to read:

C. "Telehealth," as it pertains to the delivery of health care services, means the use of interactive real-time visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management and self-management of an enrollee's physical and mental health and includes real-time interaction between the enrollee and the telehealth provider, synchronous encounters,

asynchronous encounters, store and forward transfers and telemonitoring. "Telehealth" does not include the use of ~~audio-only telephone,~~ facsimile machine, e-mail or texting.

Sec. C-3. 24-A MRSA §4316, sub-§1, ¶E, as enacted by PL 2019, c. 289, §2, is repealed.

Sec. C-4. 24-A MRSA §4316, sub-§5, as enacted by PL 2019, c. 289, §2, is repealed.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill establishes certain requirements for the protection of health care consumers with regard to testing, treatment and immunization for COVID-19. The bill also makes changes to improve access to prescription drugs and to health care services through telehealth.

Part A of the bill requires health insurance carriers to provide coverage for COVID-19 screening, testing and immunization services and prohibits a carrier from imposing any cost-sharing requirements on consumers for those services.

Part B of the bill authorizes a pharmacist to administer COVID-19 vaccines licensed by the United States Food and Drug Administration that are recommended by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practices for administration to a person 16 years of age or older. Part B also provides that registered nurses, providers of osteopathic medicine, providers of allopathic medicine, podiatrists and dentists may prescribe to a patient a prescription drug for an extended period of time, not to exceed a 180-day supply, during a state of emergency declared by the Governor.

Part C of the bill authorizes the delivery of health care services through telehealth by audio-only telephone.