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Legislative Document

No. 582

H.P. 425

House of Representatives, February 24, 2021

**An Act To Support the Fidelity and Sustainability of Assertive
Community Treatment**

(EMERGENCY)

Received by the Clerk of the House on February 22, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MADIGAN of Waterville.

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

3 **Whereas,** this legislation needs to take effect before the expiration of the 90-day
4 period because MaineCare reimbursement rates for providing individualized intensive
5 integrated mental health services, known as "assertive community treatment," have not
6 been adjusted in many years and are insufficient to enable some providers to continue to
7 provide services; and

8 **Whereas,** the parameters and requirements for individualized intensive integrated
9 mental health services must be reformed immediately in order to sustain the availability
10 and effectiveness of these services by providing resources and criteria that support the
11 fidelity of the assertive community treatment model; and

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

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

17 **Sec. 1. 34-B MRSA §3801, sub-§4-C** is enacted to read:

18 **4-C. Medical assistant.** "Medical assistant" means a person to whom certain activities
19 relating to medical care and treatment have been delegated by a licensed physician or
20 surgeon in compliance with Title 32, section 2594-A or 3270-A.

21 **Sec. 2. 34-B MRSA §3801, sub-§7-C** is enacted to read:

22 **7-C. Psychiatric provider.** "Psychiatric provider" means a licensed health care
23 provider with psychiatric training or experience, including without limitation a psychiatrist,
24 psychiatric nurse practitioner or physician assistant.

25 **Sec. 3. 34-B MRSA §3801, sub-§11,** as amended by PL 2017, c. 407, Pt. A, §159,
26 is further amended to read:

27 **11. Assertive community treatment.** "Assertive community treatment" or "ACT"
28 means a self-contained, evidence-based service with a fixed point of responsibility for
29 providing treatment, rehabilitation and support services to persons with mental illness for
30 whom other community-based treatment approaches have been unsuccessful. Assertive
31 community treatment uses clinical and rehabilitative staff to address symptom stability;
32 relapse prevention; maintenance of safe, affordable housing in normative settings that
33 promote well-being; establishment of natural support networks to combat isolation and
34 withdrawal; the minimizing of involvement with the criminal justice system; individual
35 recovery education; and services to enable the person to function at a work site. Assertive
36 community treatment is provided by multidisciplinary teams who are on duty 24 hours per
37 day, 7 days per week; teams must include a ~~psychiatrist~~ psychiatric provider, registered
38 nurse, certified rehabilitation counselor or certified employment specialist, a peer recovery
39 specialist and a substance use disorder counselor and may include an occupational
40 therapist, community-based mental health rehabilitation technician, psychologist, licensed
41 clinical social worker ~~or~~, licensed clinical professional counselor, medical assistant or
42 person with training demonstrated by a 4-year postsecondary or graduate degree in a mental
43 health related field. An ACT team member who is a state employee is, while in good faith

1 performing a function as a member of an ACT team, performing a discretionary function
2 within the meaning of Title 14, section 8104-B, subsection 3.

3 **Sec. 4. Reimbursement rate increase.** The Department of Health and Human
4 Services shall increase reimbursement rates under rule Chapter 101: MaineCare Benefits
5 Manual, Chapters II and III, Section 17 for assertive community treatment by 25%
6 beginning on the effective date of this Act.

7 **Sec. 5. Rulemaking.** The Department of Health and Human Services shall amend
8 its rules governing the assertive community treatment, or ACT, program within 6 months
9 after the effective date of this Act, with appropriate stakeholder involvement, to make the
10 following changes to the program:

11 1. Provide for a per member, per month reimbursement model that ensures adequate
12 resources to provide services achieving fidelity to the evidence-based model for ACT
13 services, using a per member, per month payment model;

14 2. Ensure that limits are not placed on the duration of ACT services to any recipient
15 and that ACT services remain the point of contact for all clients meeting the eligibility
16 requirements for ACT for as long as necessary;

17 3. Provide an initial authorization period of one year for clients meeting eligibility
18 requirements for ACT and require reauthorization no more often than annually thereafter;

19 4. Allow billing for services under the program for coordination of care during an
20 initial engagement period of 90 days, when the recipient of those services is temporarily
21 admitted to a hospital or resident in a jail or prison in this State and when the recipient is
22 making a transition to a lower level of care, recognizing that the fidelity of the program to
23 the ACT model requires continuity of treatment;

24 5. Clarify that the minimum contact requirement is 3 contacts weekly on average over
25 each year of authorized service and that a contact may be face to face, through a closed
26 door or an outreach attempt at the home or in the community, including without limitation
27 street outreach; and

28 6. Ensure that medical eligibility to receive services under the program reflects an
29 evidence-based understanding of the diagnoses and circumstances in which ACT is
30 effective.

31 Rules adopted pursuant to this section are routine technical rules as defined in the
32 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

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

35 SUMMARY

36 This bill modifies the definition of "assertive community treatment" to better align the
37 definition with an evidence-based treatment model. The bill adds definitions of
38 "psychiatric provider" and "medical assistant" and changes the description of the
39 composition of the multidisciplinary teams that provide assertive community treatment.
40 The bill also requires the Department of Health and Human Services to increase the
41 MaineCare reimbursement rates for assertive community treatment by 25% immediately to
42 allow providers to continue to offer the service. The bill also requires the department to

1 adopt rules to transition to a per member, per month payment model and to reform the
2 criteria and operation of the program to ensure its fidelity to the evidence-based model for
3 assertive community treatment services.