

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 969

H.P. 683

House of Representatives, March 12, 2013

**Resolve, Directing the Department of Health and Human Services
To Reduce and Limit the Adult Developmental Services Waiting
Lists by Implementing a More Efficient, Responsive and
Individualized Model of Service Delivery**

(EMERGENCY)

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative STUCKEY of Portland.
Cosponsored by Senator CRAVEN of Androscoggin and
Representatives: Speaker EVES of North Berwick, FARNSWORTH of Portland,
MacDONALD of Boothbay, MALABY of Hancock, MONAGHAN-DERRIG of Cape
Elizabeth, POULIOT of Augusta, WEAVER of York, Senator: MILLETT of Cumberland.

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,** children with disabilities have an entitlement under state and federal law
4 to receive services as needed in order to succeed in the most appropriate educational
5 settings, but there is no entitlement to services for young adults with disabilities who exit
6 the public school system; and

7 **Whereas,** intellectual disabilities and autism are life-long conditions requiring
8 various degrees of support, both paid and unpaid, throughout adulthood; and

9 **Whereas,** the MaineCare program Chapter 101, Chapter II, Sections 21 and 29 are
10 the only funding mechanisms available to support adults with intellectual disabilities and
11 autism in Maine; and

12 **Whereas,** waiting lists for services under the MaineCare program Chapter 101,
13 Chapter II, Sections 21 and 29 have grown dramatically so that approximately 1,000
14 Maine citizens are on these waiting lists, a situation that is unacceptable and demands a
15 solution; and

16 **Whereas,** the individuals on the waiting lists are in danger of losing skills every day
17 they go without services, and their families experience stress, economic hardship and
18 other pressures associated with caring for adult family members; and

19 **Whereas,** the Maine Coalition for Housing and Quality Services formed in May
20 2006 has developed a white paper describing a model of service designed to streamline
21 and improve services and this white paper has been generally supported by the
22 Department of Health and Human Services and a stakeholder working group formed
23 pursuant to Public Law 2011, chapter 477, Part W; and

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

28 **Sec. 1. Department of Health and Human Services directed to request**
29 **approval to amend the MaineCare program Chapter 101, Chapter II,**
30 **Sections 21 and 29 waivers to permit reimbursement for the use of**
31 **appropriate technology. Resolved:** That the Department of Health and Human
32 Services shall request approval from the federal Centers for Medicare and Medicaid
33 Services to amend the waivers for the MaineCare program Chapter 101, Chapter II,
34 Section 21, Home and Community Benefits for Members with Intellectual Disabilities or
35 Autistic Disorder, and Section 29, Support Benefits for Adults with Intellectual
36 Disabilities or Autistic Disorder, to permit the reimbursement for use of appropriate
37 electronic technology as a means of reducing the costs of supporting people currently
38 being served. Appropriate use of technology includes, but is not limited to, increasing
39 independence and reducing reliance on staff during overnight hours. The department
40 shall submit the application for both waivers by July 1, 2013; and be it further

1 **Sec. 2. Rulemaking to implement technology updates. Resolved:** That,
2 upon the approval of the amended waivers by the federal Centers for Medicare and
3 Medicaid Services pursuant to section 1, the Department of Health and Human Services
4 shall undertake rulemaking to amend the rules on the MaineCare program in Chapter 101,
5 Chapter II, Sections 21 and 29 to add electronic technology. Rules adopted pursuant to
6 this section are routine technical rules as defined in the Maine Revised Statutes, Title 5,
7 chapter 375, subchapter 2-A; and be it further

8 **Sec. 3. Department of Health and Human Services directed to amend the**
9 **Section 29 waiver to add home support services. Resolved:** That the
10 Department of Health and Human Services shall request approval from the federal
11 Centers for Medicare and Medicaid Services to amend the waiver for the MaineCare
12 program Chapter 101, Chapter II, Section 29 to add as a covered service home support as
13 an option under the current service cap. Home support is a direct support provided to a
14 member in the member's home by a direct support professional to improve and maintain
15 the member's ability to live as independently as possible in that member's own home and
16 primarily consists of personal assistance, such as preparing meals, cleaning and personal
17 care. The department shall submit the application for the waiver by October 1, 2013; and
18 be it further

19 **Sec. 4. Rulemaking to implement home support services. Resolved:** That,
20 upon approval of the waiver by the federal Centers for Medicare and Medicaid Services
21 pursuant to section 3, the Department of Health and Human Services shall undertake
22 rulemaking to amend the rules on the MaineCare program in Chapter 101, Chapter II,
23 Section 29 to add home support services as a covered service. Rules adopted pursuant to
24 this section are routine technical rules as defined in the Maine Revised Statutes, Title 5,
25 chapter 375, subchapter 2-A; and be it further

26 **Sec. 5. Savings generated by electronic technology and home support**
27 **services. Resolved:** That savings generated by the use of electronic technology and
28 home supports, particularly in preventing the need for individuals who are to receive
29 services under the MaineCare program Chapter 101, Chapter II, Section 29 from
30 requiring residential services under Section 21, must be used to serve additional people
31 currently on the waiting list for these waiver programs; and be it further

32 **Sec. 6. Implementation of adult developmental services working group**
33 **interim recommendations. Resolved:** That the Department of Health and Human
34 Services shall report to the Joint Standing Committee on Health and Human Services and
35 the Joint Standing Committee on Appropriations and Financial Affairs by June 1, 2013
36 describing the status of the implementation of recommendations from interim reports by
37 the adult developmental services working group formed pursuant to Public Law 2011,
38 chapter 477, Part W, section 1. The department shall incorporate the following
39 recommendations from the adult developmental services working group for individuals
40 with intellectual disabilities and autism into a plan:

41 1. Each person will receive a strength-based standardized individualized assessment
42 of that person's strengths or needs to inform a person-centered plan;

1 The resolve also requires the Department of Health and Human Services to report to
2 the Joint Standing Committee on Health and Human Services and the Joint Standing
3 Committee on Appropriations and Financial Affairs on the status of the recommendations
4 of the adult developmental services working group formed pursuant to Public Law 2011,
5 chapter 477, Part W, section 1. The department is required to develop a plan to
6 incorporate the recommendations of the working group, including specific steps and a
7 timeline with a goal that current and future waiting lists do not exceed 6 months.