

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DMG
R. O'S

Date: 2/11/19

(Filing No. S- 265)

HEALTH AND HUMAN SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

129TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 588, L.D. 1758, Bill, "An Act To Clarify and Amend MaineCare Reimbursement Provisions for Nursing and Residential Care Facilities"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. PL 2017, c. 460, Pt. B, §3, sub-§1 is amended to read:

1. Special wage allowance for fiscal year 2018-19 and subsequent fiscal years.

For the state fiscal year ending June 30, 2019, a special supplemental allowance must be made to provide for increases in wages and wage-related benefits in both the direct care cost component and routine care cost component as follows. An amount equal to 10% of allowable wages and associated benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2016 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement. This supplemental allowance must also be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in that fiscal year. The supplemental allowance for the state fiscal year ending June 30, 2019 provided pursuant to this subsection must continue in each successive fiscal year until the fiscal year in which the rebasing under the Maine Revised Statutes, Title 22, section 1708, subsection 3, paragraph F is based on 2019 as-filed cost report data and has incorporated the costs of wages and allowable benefits and taxes of a facility.

Sec. 2. PL 2017, c. 460, Pt. B, §3, sub-§§1-A and 1-B are enacted to read:

1-A. Additional special wage allowance for fiscal year 2019-20 and subsequent fiscal years. For the state fiscal year ending June 30, 2020, an additional special supplemental allowance must be made to provide for increases in contract labor, wages and allowable benefits and taxes in both the direct care component and routine care component as follows. An amount equal to 10% of allowable contract labor, wages and allowable benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2017 must be added to the cost per resident day in

COMMITTEE AMENDMENT

R. 018

1 calculating each facility's prospective rate, notwithstanding any otherwise applicable caps
2 or limits on reimbursement to the contrary. This additional supplemental allowance must
3 be allowed and paid at final audit to the full extent that it does not cause reimbursement
4 to exceed the facility's allowable costs in that fiscal year. The additional supplemental
5 allowance for fiscal years ending in calendar year 2020 must be paid in each successive
6 state fiscal year until the fiscal year in which a rebasing under the Maine Revised
7 Statutes, Title 22, section 1708, subsection 3, paragraph F is based on 2020 as-filed cost
8 report data and has incorporated the costs of contract labor, wages and allowable benefits
9 and taxes of a facility. For the purposes of this subsection, "contract labor" includes
10 nursing, housekeeping, dietary, laundry and related services.

11 **1-B. No limitation.** The increases in reimbursement rates that result from
12 implementation of this Act are not limited to only wage and wage-related costs.

13 **Sec. 3. PL 2017, c. 460, Pt. B, §4, sub-§1** is amended to read:

14 **1. Special wage allowance for fiscal year 2018-19 and subsequent fiscal years.**
15 For the state fiscal year ending June 30, 2019, a special supplemental allowance must be
16 made to provide for increases in wages and wage-related benefits in the direct care,
17 personal care services and routine cost components as follows. An amount equal to 10%
18 of wages and associated benefits and taxes as reported on each facility's as-filed cost
19 report for its fiscal year ending in calendar year 2016 must be added to the cost per
20 resident day in calculating each facility's prospective rate, notwithstanding any otherwise
21 applicable caps or limits on reimbursement. This supplemental allowance must also be
22 allowed and paid at final audit to the full extent that it does not cause reimbursement to
23 exceed the facility's allowable costs in each component that is cost settled in that fiscal
24 year. The supplemental allowance for the state fiscal year ending in June 30, 2019
25 provided pursuant to this subsection must continue in each successive fiscal year until the
26 fiscal year in which the rebased rates have incorporated the costs of wages and allowable
27 benefits and taxes that were reported on each facility's as-filed cost report for its fiscal
28 year ending in calendar year 2019.

29 **Sec. 4. PL 2017, c. 460, Pt. B, §4, sub-§§1-A and 1-B** are enacted to read:

30 **1-A. Additional special wage allowance for fiscal year 2019-20 and subsequent**
31 **fiscal years.** For the state fiscal year ending June 30, 2020, an additional special
32 supplemental allowance must be made to provide for increases in contract labor, wages
33 and allowable benefits and taxes in the direct care, personal care services and routine care
34 cost components as follows. An amount equal to 10% of allowable contract labor, wages
35 and allowable benefits and taxes as reported on each facility's as-filed cost report for its
36 fiscal year ending in calendar year 2017 must be added to the cost per resident day in
37 calculating each facility's prospective rate, notwithstanding any otherwise applicable caps
38 or limits on reimbursement to the contrary. The additional supplemental allowance must
39 be allowed and paid at final audit to the full extent that it does not cause reimbursement
40 to exceed the facility's allowable costs in that fiscal year. The supplemental allowance
41 must be paid in each fiscal year after state fiscal year 2019-20 until the fiscal year in
42 which rates have been rebased using 2020 or a later calendar year as a base year and the
43 rebased rates have incorporated the costs of contract labor, wages and allowable benefits
44 and taxes that were reported on each facility's as-filed cost report for its fiscal year ending

R.O.S.

1 in calendar year 2020. For purposes of this subsection, "contract labor" includes nursing,
 2 housekeeping, dietary, laundry and related services.

3 1-B. No limitation. The increases in reimbursement rates that result from
 4 implementation of this Act are not limited to only wage and wage-related costs.

5 **Sec. 5. Appropriations and allocations.** The following appropriations and
 6 allocations are made.

7 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

8 **Medical Care - Payments to Providers 0147**

9 Initiative: Provides appropriations and allocations for residential care facility wage
 10 allowances.

11	GENERAL FUND	2019-20	2020-21
12	All Other	\$4,105,583	\$4,130,636
13			
14	GENERAL FUND TOTAL	<u>\$4,105,583</u>	<u>\$4,130,636</u>

15	FEDERAL EXPENDITURES FUND	2019-20	2020-21
16	All Other	\$8,904,769	\$8,879,717
17			
18	FEDERAL EXPENDITURES FUND TOTAL	<u>\$8,904,769</u>	<u>\$8,879,717</u>

19	OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
20	All Other	\$907,699	\$907,699
21			
22	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$907,699</u>	<u>\$907,699</u>

23 **Nursing Facilities 0148**

24 Initiative: Provides appropriations and allocations for nursing facility wage allowances.

25	GENERAL FUND	2019-20	2020-21
26	All Other	\$10,967,325	\$7,399,924
27			
28	GENERAL FUND TOTAL	<u>\$10,967,325</u>	<u>\$7,399,924</u>

29	FEDERAL EXPENDITURES FUND	2019-20	2020-21
30	All Other	\$23,374,065	\$15,632,951
31			

COMMITTEE AMENDMENT

R. O. S.

1 FEDERAL EXPENDITURES FUND TOTAL \$23,374,065 \$15,632,951

2 OTHER SPECIAL REVENUE FUNDS 2019-20 2020-21
 3 All Other \$2,192,004 \$1,470,183
 4
 5 OTHER SPECIAL REVENUE FUNDS TOTAL \$2,192,004 \$1,470,183

6 **PNMI Room and Board Z009**

7 Initiative: Provides appropriations and allocations for residential care facility wage
 8 allowances.

9 GENERAL FUND 2019-20 2020-21
 10 All Other \$1,210,265 \$1,210,265
 11
 12 GENERAL FUND TOTAL \$1,210,265 \$1,210,265

13 **HEALTH AND HUMAN SERVICES,**
 14 **DEPARTMENT OF**
 15 **DEPARTMENT TOTALS**

16 2019-20 2020-21
 17 GENERAL FUND \$16,283,173 \$12,740,825
 18 FEDERAL EXPENDITURES FUND \$32,278,834 \$24,512,668
 19 OTHER SPECIAL REVENUE FUNDS \$3,099,703 \$2,377,882
 20
 21 DEPARTMENT TOTAL - ALL FUNDS \$51,661,710 \$39,631,375
 22

23 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
 24 section number to read consecutively.

25 **SUMMARY**

26 This amendment removes the sections of the bill that require additional cost-of-living
 27 adjustments to nursing facilities and residential care facilities and supplemental
 28 allowances for facilities with a high proportion of MaineCare residents and facilities with
 29 specialty beds. It retains the requirements for the 10% one-time supplemental payment
 30 provided in Public Law 2017, chapter 460, Part B to nursing facilities and residential care
 31 facilities to continue in successive years until rebasing incorporates the increase, but the
 32 amendment removes the retroactive requirement to include contract labor. It retains the
 33 requirement to grant an additional 10% increase that is carried forward until rebasing
 34 incorporates the increase, but it removes the language relating to requiring increases to go
 35 to routine care cost components of the rates. It removes the specific prohibition upon the
 36 Department of Health and Human Services to require a nursing facility or residential care

R. O. S.

COMMITTEE AMENDMENT "A" to S.P. 588, L.D. 1758 (S 265)

1 facility to demonstrate how increased reimbursement is applied to wages and benefits to
2 direct care workers but specifies that the increased reimbursement is not limited to only
3 wages and wage-related costs. It removes the retroactivity section of the bill but retains
4 the emergency provision of the bill. It adds an appropriations and allocations section.

5 **FISCAL NOTE REQUIRED**

6 **(See attached)**

COMMITTEE AMENDMENT



129th MAINE LEGISLATURE

LD 1758

LR 1523(02)

An Act To Clarify and Amend MaineCare Reimbursement Provisions for Nursing and Residential Care Facilities

Fiscal Note for Bill as Amended by Committee Amendment "A" (S 265)

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$16,283,173	\$12,740,825	\$12,740,825	\$5,340,901
Appropriations/Allocations				
General Fund	\$16,283,173	\$12,740,825	\$12,740,825	\$5,340,901
Federal Expenditures Fund	\$32,278,834	\$24,512,668	\$24,512,668	\$8,879,717
Other Special Revenue Funds	\$3,099,703	\$2,377,882	\$2,377,882	\$907,699
Revenue				
Federal Expenditures Fund	\$32,278,834	\$24,512,668	\$24,512,668	\$8,879,717
Other Special Revenue Funds	\$3,099,703	\$2,377,882	\$2,377,882	\$907,699

Fiscal Detail and Notes

The bill includes General Fund appropriations to the Department of Health and Human Services of \$16,283,173 in fiscal year 2019-20 and \$12,740,825 in fiscal year 2020-21 for residential care facility and nursing facility wage allowances. Federal Expenditures Fund allocations are also included for the FMAP match.

The Upper Payment Limit (UPL) analysis for Nursing Facilities (NF) indicates that currently the NF payments in MaineCare are lower than Medicare by \$12.5 million. The annual cost of living adjustments (COLA) for the NF's will go into effect on July 1, 2019 and are estimated to increase the payments by \$10.6 million. The impact of this change on the UPL will be limited by an increase to the Medicare rates to which the MaineCare rates are compared, but between the COLA and the cost from this bill, the NF costs will likely go over the UPL threshold. However, based on the language in statute (Title 22 §1708 sub-§3, ¶C), the DHHS must establish reimbursement rates that "are consistent with federal requirements relative to limits on reimbursement under the federal Social Security Act, Title XIX." Thus, the estimate of costs above includes all increases associated with the bill, with a federal match. If this does create a UPL issue, the DHHS will limit the payments to NF's to remain below the federally required limits.