

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 2141

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H.P. 1529

House of Representatives, March 5, 2020

**Resolve, To Ensure Continued Services for Children with  
Disabilities by Imposing a Delay on MaineCare Rulemaking until an  
Impact Study Is Completed**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

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

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

ROBERT B. HUNT  
Clerk

Presented by Representative MEYER of Eliot.  
Cosponsored by President JACKSON of Aroostook and  
Representatives: CRAVEN of Lewiston, DILLINGHAM of Oxford, FARNSWORTH of  
Portland, FECTION of Biddeford, KORNFIELD of Bangor, MOONEN of Portland,  
O'CONNOR of Berwick, STEWART of Presque Isle, STOVER of Boothbay, Senator:  
MILLETT of Cumberland.

1           **Sec. 1. School-based services rulemaking delay. Resolved:** That the  
2 Department of Health and Human Services and the department's office of MaineCare  
3 services may not adopt or proceed to adopt any rule that proposes to change rules  
4 governing school-based services provided under 10-144 C.M.R. Chapter 101: MaineCare  
5 Benefits Manual until the steps set out in this section have been completed.

6           1. The department shall carry out an impact study that clearly identifies, in language  
7 accessible for families of affected children:

8           A. The rationale for any proposed rule changes;

9           B. The intended and unintended effects of such changes, including but not limited to  
10 financial impacts on families;

11           C. The financial impacts on providers of school-based services and their subsequent  
12 ability and capacity to provide the services;

13           D. An assessment of the consequences for children with disabilities of any reduction,  
14 delay or denial of service for children who are receiving or anticipated to receive  
15 medically necessary school-based services, including an examination of scientifically  
16 sound research literature about the short-term and long-term benefits of early  
17 intervention programs, the features associated with effective programs and the  
18 economic gains that accrue from investing resources in early childhood interventions;

19           E. Best practices for applied behavior analysis and best practices for early  
20 intervention services for children with a range of common disabilities; and

21           F. Clarification of federal and state law regarding limiting medically necessary  
22 treatment services for children to services that are recommended in the individualized  
23 education plan.

24           In carrying out the study, the department shall seek and consider input from affected  
25 provider groups; schools, including developmental preschools and prekindergartens;  
26 school systems; children and family advocacy groups; the Department of Education; the  
27 Child Development Services System; and other stakeholders.

28           The department shall incorporate into the study the recommendations and implementation  
29 plan for early intervention services in public schools contained in the final report due  
30 December 1, 2020 of the independent review of the State's early childhood special  
31 education services being carried out pursuant to Public Law 2019, chapter 343, Part  
32 VVVV.

33           2. The department shall submit the completed impact study and a further report,  
34 made by the department, regarding any proposed rules or modifications to current rule  
35 pertaining to medically necessary school-based services to the joint standing committee  
36 of the Legislature having jurisdiction over health and human services matters no later  
37 than April 1, 2021. The joint standing committee may report out legislation relating to  
38 the subject matter of the study and the further report for presentation to the First Regular  
39 Session of the 130th Legislature.

40           **Sec. 2. Initiation of rulemaking; major substantive rules. Resolved:** That,  
41 following submission of the department's study under section 1 and report regarding any

1 proposed rules or modifications to current rule pertaining to medically necessary school-  
2 based services pursuant to section 1, subsection 2 but no earlier than July 1, 2021, the  
3 Department of Health and Human Services may initiate rulemaking to change rules  
4 governing school-based services provided under 10-144 C.M.R. Chapter 101: MaineCare  
5 Benefits Manual. Rules adopted pursuant to this section are major substantive rules  
6 pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

7 **SUMMARY**

8 This resolve imposes a delay on the adoption by the Department of Health and  
9 Human Services of any rule that proposes to change provisions of 10-144 C.M.R. Chapter  
10 101: MaineCare Benefits Manual governing school-based services.

11 It requires the department, before initiating rulemaking, to complete an impact study  
12 setting forth the rationale for the proposed changes, the financial impacts on affected  
13 families and providers of school-based services, potential service delays and other issues  
14 relating to state and federal law. The department is required to seek and consider input  
15 from affected provider groups, schools, children and family advocacy groups, the  
16 Department of Education, the Child Development Services System and other stakeholders  
17 and is also required to incorporate into the study the recommendations and  
18 implementation plan for early intervention services in public schools that will be  
19 forthcoming from the review of the State's early childhood special education services  
20 being carried out pursuant to Public Law 2019, chapter 343, Part VVVV. This report,  
21 produced by an independent entity, is due to be completed on December 1, 2020.

22 It requires the department to submit the completed study and a further report  
23 regarding any proposed rules or modifications to current rule pertaining to medically  
24 necessary school-based services to the joint standing committee of the Legislature having  
25 jurisdiction over health and human services matters no later than April 1, 2021. The joint  
26 standing committee is authorized to report out legislation relating to the subject matter of  
27 the study and the report to the First Regular Session of the 130th Legislature.

28 It authorizes the department, following completion of its study and report but no  
29 earlier than July 1, 2021, to initiate rulemaking to change rules governing school-based  
30 services provided under 10-144 C.M.R. Chapter 101: MaineCare Benefits Manual and  
31 specifies that any rules adopted are major substantive rules pursuant to the Maine Revised  
32 Statutes, Title 5, chapter 375, subchapter 2-A.