

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

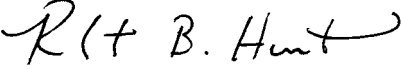
No. 169

H.P. 102

House of Representatives, January 14, 2025

An Act to Amend the Laws Regarding Estate Recovery and Planning for Long-term Care

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


ROBERT B. HUNT
Clerk

Presented by Representative HASENFUS of Readfield.
Cosponsored by Senator HICKMAN of Kennebec and
Senator: LIBBY of Cumberland.

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

2 **Sec. 1. 22 MRSA §14, sub-§2-I, ¶H** is enacted to read:

3 H. Beginning January 1, 2026, the amount of the claim collected under this subsection
4 is adjusted by subtracting the cost of collecting the claim and the amount attributable
5 to federal payments to the State made according to the Federal Medical Assistance
6 Percentage. The remainder must be refunded to the estate of the deceased recipient.

7 **Sec. 2. Asset transfer for eligibility; standard of proof; amend rules.** The
8 Department of Health and Human Services shall amend its rules in Chapter 332: MaineCare
9 Eligibility Manual, Part 15, Transfer of Assets, in Section 1.6 to remove the standard of
10 "clear and convincing evidence" required to prove that a transfer of an asset was not
11 intended at the time of transfer to result in eligibility for Medicaid and replace it with a
12 "preponderance of evidence" standard. The preponderance of evidence standard must
13 apply to all asset transfers, including payments to a person who is a family member or
14 guardian for the provision of services in assisting with activities of daily living or
15 instrumental activities of daily living that prevented the applicant's transfer to residential
16 or nursing facility care. The department shall adopt rules to implement this section no later
17 than January 1, 2026. Rules adopted pursuant to this section are major substantive rules as
18 defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

19 **Sec. 3. Public information regarding estate recovery in MaineCare**
20 **program.** After consultation with interested parties and advocates and before January 1,
21 2026, the Department of Health and Human Services shall prepare and publish
22 informational documents, including brochures and postings on the department's publicly
23 accessible website, educating the public about estate recovery requirements under the
24 Maine Revised Statutes, Title 22, section 14. The publications must include information
25 about long-term care planning and transferring and sheltering of assets as allowed under
26 any federal and state law, regulations and rules. The department shall ensure that the
27 information is broadly distributed to MaineCare members, area agencies on aging and other
28 relevant organizations.

29 **Sec. 4. Public information regarding home and community-based services**
30 **provided by family member or guardian.** After consultation with interested parties
31 and advocates and before January 1, 2026, the Department of Health and Human Services
32 shall prepare and distribute a brochure written in clear and easily understandable language
33 describing the circumstances, requirements and eligibility to allow family members or legal
34 guardians to be reimbursed for providing personal care services to a family member who
35 is eligible to receive home and community-based services under the MaineCare program
36 or a state-funded program. The brochure must include, at a minimum, the following:

37 1. Information on which programs allow for family members or guardians to be
38 reimbursed for providing services;

39 2. Information on how and where the family member can apply and how to register as
40 a personal care agency, if required. It must also include information for the person eligible
41 to receive home and community-based services on how and where to apply and must
42 include information on self-direction services, as applicable; and

