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 electronic originals (may include minor formatting differences from printed original)



132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 279

S.P. 129

In Senate, January 28, 2025

An Act to Address the Shortage of Direct Care Workers for Children with Disabilities in Maine

(EMERGENCY)

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

DAREK M. GRANT Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

Cosponsored by Senators: GROHOSKI of Hancock, INGWERSEN of York, RAFFERTY of York.

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
Whereas, a shortage of direct care workers has resulted in individuals, including

whereas, a shortage of direct care workers has resulted in individuals, including children, who are eligible for in-home personal care services but are not receiving critical services; and

Whereas, parents of children eligible for in-home personal care services are leaving paid employment to provide care in the absence of available direct care workers, resulting in economic hardship; and

Whereas, this legislation requires the Department of Health and Human Services to submit a request for the necessary state plan amendment or Medicaid waiver from the Federal Government as soon after enactment as possible; and

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

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

- **Sec. 1. 22 MRSA §1717, sub-§2-A,** as enacted by PL 2023, c. 309, §5, is amended to read:
- **2-A.** Licensing of personal care agencies. Beginning July 1, 2024, an entity may not provide home care services without a personal care agency license issued by the department in accordance with this section. Beginning November 1, 2025, a parent who is registered pursuant to section 3174-PPP may provide in-home personal care services in accordance with section 3174-PPP. All application fees for a license under this section are nonrefundable and are due upon submission of the application.
 - A. A personal care agency that holds an unexpired registration issued in accordance with subsection 2 may continue to provide home care services until the registration expires.
- This paragraph is repealed July 1, 2025.

- B. A personal care agency holding an unexpired registration issued in accordance with subsection 2 is not required to obtain a license until the registration expires.
- This paragraph is repealed July 1, 2025.

Sec. 2. 22 MRSA §3174-PPP is enacted to read:

§3174-PPP. In-home personal care services to children

- 1. Reimbursement for parent. A parent of a child who is eligible for in-home personal care services under the MaineCare program may register as a personal care agency, as defined in section 1717, subsection 1, paragraph C and determined in department rule, and receive reimbursement for providing those services to the child if the following requirements are met:
 - A. The parent has made reasonable but unsuccessful efforts to obtain regular in-home personal care services; and

- B. The parent has satisfied the requirements of the applicable background check required for providers of in-home personal care services.
- 2. Employer designation. In order for a parent to be registered as a personal care agency under subsection 1, another individual who is not a parent of the child must be designated as the employer. The person designated as the employer must be approved by both the department and the parent to act in the child's interest.
- 3. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
- **Sec. 3. Department of Health and Human Services to seek federal approval.** The Department of Health and Human Services shall seek any necessary state plan amendments or waivers from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to implement the Maine Revised Statutes, Title 22, section 3174-PPP. The department shall submit the requests for approval no later than 6 months after the effective date of this Act.
- **Sec. 4. Rulemaking.** The Department of Health and Human Services shall adopt rules in accordance with the Maine Revised Statutes, Title 22, section 3174-PPP, subsection 3 no later than 6 months after receiving the necessary approvals from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services under section 3.
- **Sec. 5.** Contingent effective date. That section of this Act that amends the Maine Revised Statutes, Title 22, section 1717, subsection 2-A and enacts Title 22, section 3174-PPP take effect only if the necessary approvals sought pursuant to section 3 of this Act are received. The Commissioner of Health and Human Services shall notify the Secretary of State, Secretary of the Senate, Clerk of the House of Representatives and Revisor of Statutes when approvals sought under section 3 have been received.
- **Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

29 SUMMARY

This bill allows for the reimbursement of a parent providing in-home personal care services to the parent's child by allowing the parent to register as a personal care agency if the parent has made reasonable but unsuccessful efforts to obtain regular in-home personal care services and has passed a background check. The child must be eligible for the MaineCare program. An individual who is not a parent of the child must be designated as the employer and must be approved as the employer by both the parent and the Department of Health and Human Services. The department is required to request the necessary state plan amendments or waivers from the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services and adopt routine technical rules within 6 months of federal approval.