

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 263

S. P. 99

In Senate, January 20, 1971

Referred to Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Mr. Hichens of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

**AN ACT Relating to Charges for Care and Treatment of Persons
in State Institutions.**

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

Sec. 1. R. S., T. 34, § 2511, repealed and replaced. Section 2511 of Title 34 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 2511. Department to establish charges

The department shall establish charges for care and treatment of patients at the Augusta State Hospital, Bangor State Hospital, Pineland Hospital and Training Center and the Regional Care Facility for the Severely Mentally Retarded at Bangor. "Care and treatment" for the purposes of this chapter shall include all goods and services provided to a patient, furnished by, or caused to be furnished by, the State.

Sec. 2. R. S., T. 34, § 2512, amended. Section 2512 of Title 34 of the Revised Statutes, as repealed and replaced by section 2 of chapter 292 of the public laws of 1965 and as amended by section 1 of chapter 477 of the public laws of 1967, is further amended to read as follows:

§ 2512. Persons liable

Each patient and the spouse, adult child and parent, jointly and severally, shall be legally liable from the date of admission for the ~~support care and treatment~~ of any patient committed or otherwise legally admitted to either state hospital for the mentally ill ~~or to~~, the Pineland Hospital and Training Center ~~or the Regional Care Facility for the Severely Mentally Retarded at~~

Bangor, except that a parent shall not be legally liable for ~~support care and treatment~~ unless the patient was wholly or partially dependent for support upon such parent at the time of admission.

No child of a patient shall be liable for any part of such costs for a parent who willfully failed to support such child prior to the child's 18th birthday. Any child claiming such exemption shall be required to furnish the department with clear and convincing evidence substantiating such claim.

On and after January 1, 1972, the department shall not charge any parent for the care and treatment of a child beyond the child's 20th birthday, or beyond 6 months from the date of admission, whichever occurs later.

Sec. 3. R. S., T. 34, § 2513, amended. The first paragraph and the 2nd paragraph as repealed and replaced by section 2 of chapter 477 of the public laws of 1967, of section 2513 of Title 34 of the Revised Statutes, are amended to read as follows:

The department shall, following the admittance of a patient, into either of the state hospitals for the mentally ill, ~~or into~~ the Pineland Hospital and Training Center or the Regional Care Facility for the Severely Mentally Retarded at Bangor, cause an investigation to be made to determine the property, real and personal, and interests in property, if any, the patient has. The department shall make an investigation to determine whether there exist any persons responsible under section 2512 for the payment of charges for his ~~support care and treatment~~. It shall ascertain the financial condition of any such person and shall determine whether in each case such person is in fact financially able to pay such charges.

In determining ability to pay, the department shall consider in respect of the patient or other person, legally liable for the ~~support care and treatment~~ of the patient, all income, debts, expenses and obligations, and the number and condition of dependents.

Sec. 4. R. S., T. 34, § 2513, amended. The first sentence of the 4th paragraph of section 2513 of Title 34 of the Revised Statutes, as enacted by section 3 of chapter 292 of the public laws of 1965, is amended to read as follows:

For the purposes of this chapter, the commissioner and any representative of the department duly authorized by the commissioner shall have the power to administer oaths, take testimony, subpoena and compel the attendance of witnesses and the production of books, papers, records and documents deemed material or pertinent in connection with the duty of securing payments for ~~support care and treatment~~ as provided by this chapter.

Sec. 5. R. S., T. 34, § 2513, amended. The last 2 sentences of section 2513 of Title 34 of the Revised Statutes, as enacted by section 3 of chapter 292 of the public laws of 1965, are amended to read as follows:

Banking organizations, insurance companies, brokers or fiduciaries upon request by the commissioner or any representative of the department duly authorized by the commissioner shall furnish to such person in writing and duly certified, full information concerning the earnings or income of, or any

funds deposited to the credit of, or owing to, such patient or any person legally liable for the ~~support care and treatment~~ of such patient. Such certified statement shall be admissible in evidence in any action or proceeding to compel payment for the ~~support care and treatment~~ of such patient, and shall be prima facie evidence of the facts therein stated.

Sec. 6. R. S., T. 34, § 2513-A, amended. The first sentence of section 2513-A of Title 34 of the Revised Statutes, as enacted by section 4 of chapter 292 of the public laws of 1965, is amended to read as follows:

The Superintendent of the Augusta State Hospital, Bangor State Hospital, ~~and the Pineland Hospital and Training Center~~ and the **Regional Care Facility for the Severely Mentally Retarded at Bangor** is authorized to receive as payee any benefits from social security, veterans administration, railroad retirement or any other like benefits paid on behalf of any patient, and shall apply such benefits toward the ~~support care and treatment~~ of any such patient in accordance with the ~~rate fixed~~ charges made by the department.

Sec. 7. R. S., T. 34, § 2514, amended. Section 2514 of Title 34 of the Revised Statutes, as amended by section 5 of chapter 292 of the public laws of 1965 and by chapter 101 of the public laws of 1969, is further amended to read as follows:

§ 2514. Statement forms to be completed by persons liable for support

The commissioner shall prescribe financial statement forms which shall be completed by the patient or any person legally liable for his ~~support care and treatment~~ under this chapter, or by any fiduciary acting on behalf of the patient or legally liable person. The form in each case shall be witnessed.

Sec. 8. R. S., T. 34, § 2515, amended. Section 2515 of Title 34 of the Revised Statutes is amended to read as follows:

§ 2515. Amount of charges; claims against estate

~~The department may charge less than the maximum rate fixed under section 2511 but shall not in any case charge more than the fixed maximum rate~~ Whenever, upon a determination of ability to pay charges under section 2513, it is determined that any patient or person legally liable for care and treatment is unable to pay all or part of such charges the department may cancel, suspend or reduce charges in accordance with the ability to pay, of the patient or legally liable person. The department may enter into an agreement for ~~support care and treatment~~ with any patient or person legally liable for ~~support care and treatment~~ under this chapter, under which agreement the department may postpone billing for ~~support care and treatment~~ for any period of time. The State of Maine shall have a claim against the estate of any patient and against the estate of any person legally liable for ~~support care and treatment~~ under this chapter, for any amount due and owing to the State of Maine at the date of death of such patient or such person, including any claim arising under an agreement entered into under this chapter, enforceable in the probate court. Such claim shall have priority over all unsecured claims against such estate, except:

1. **Administration.** Administrative expenses, including probate fees and taxes;

2. **Last sickness.** Expenses of the last sickness;

3. **Funeral.** Funeral expenses, not exceeding \$400, exclusive of clergymen's honorarium and cemetery expenses;

4. **Claims.** Claims filed against such estate under Title 22, section 3453.

The Attorney General shall collect any claim which the State may have hereunder against such estate. No such claim shall be enforced against any real estate while it is occupied as a home by the surviving spouse of the patient or person legally liable for ~~support~~ **care and treatment** under this chapter and said spouse does not marry again.

Sec. 9. R. S., T. 34, § 2516, amended. Section 2516 of Title 34 of the Revised Statutes is amended to read as follows:

§ 2516. Debt to State

Charges made under this chapter shall be a debt of the patient or of any person legally liable for ~~support~~ **care and treatment** under this chapter, recoverable in any court of competent jurisdiction in a civil action, in the name of the State of Maine.

Sec. 10. R. S., T. 34, § 2517, amended. Section 2517 of Title 34 of the Revised Statutes is amended to read as follows:

§ 2517. Military and Naval Children's Home

This chapter shall be applicable to the support of children admitted to the Military and Naval Children's Home; **the word "support" as used in this section shall be synonymous with the words "care and treatment" as used in this chapter.**

STATEMENT OF FACT

This amendment to the support law involving health institutions of the Department of Health and Corrections, extends the law to the Bangor Facility for the Mentally Retarded and also changes the word "support" to "care and treatment." This latter provision provides the department with the opportunity of establishing a fee schedule involving a variety of different procedures rather than a single daily rate so that individuals being charged for their care and treatment in an institution will be charged very much as they are in a general hospital. Presently, the department charges a flat rate, based on the level of care being received. Charges are made against insurance carriers, Medicare or responsible relatives.

The bill also contains a provision exempting parents from payments for their child's care after the child has reached 20 years of age provided that

they have paid for no less than 6 months. This is in effect in several other states and has been recommended many times for this department.

The financial implications are difficult to determine since there will be a slight loss by excusing parents from payment for care of children beyond a certain age but there will be a substantial increase in income when specific services can be charged for rather than having a daily rate. The loss of revenue is estimated at less than \$100,000 annually and the potential gain, contingent on the institutions' being able to assign specific charges properly, would exceed \$300,000.