

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1242

H. P. 974

House of Representatives, March 14, 1979

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

EDWIN H. PERT, Clerk

Presented by Mr. Boudreau of Waterville.

Cosponsors: Ms. Lund of Augusta, Mrs. Nelson of Portland and Miss Gavett of Orono.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT to Provide Personal Care Assistance Services to Enable Persons with a
Severe Physical Disability to Work.**

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

Sec. 1. 1 MRSA § 2501, sub-§ 22 is enacted to read:

22. Title 22.

A. Title 22, chapter 717 shall be repealed on January 1, 1983.

Sec. 2. 22 MRSA c. 717 is enacted to read:

CHAPTER 717

**ASSISTANCE TO THE SEVERELY PHYSICALLY DISABLED
TO ENABLE THEM TO WORK**

§ 3091. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. **Bureau.** "Bureau" means the Bureau of Rehabilitation in the Department of Human Services.

2. **Employed.** "Employed" means engaged in activity of 20 or more hours per week for which the individual receives remuneration.

3. **Family member.** "Family member" means an individual's parent, grandparent, sibling, child, spouse, spouse's parent, spouse's grandparent, spouse's sibling or spouse's child.

4. **Personal care assistance services.** "Personal care assistance services" means services rendered between 6 a.m. and 11 p.m. at least 5 days a week which are required by an individual with a severe physical disability to become physically independent. These services include, but are not limited to:

- A. Routine bodily functions, such as bowel or bladder care;
- B. Dressing;
- C. Preparation and consumption of food;
- D. Moving in and out of bed;
- E. Routine bathing;
- F. Ambulation; and
- G. Any other similar function of daily living.

5. **Severe physical disability.** "Severe physical disability" means a functional loss of the arms and legs.

§ 3092. Subsidy

The Bureau of Rehabilitation in the Department of Human Services shall subsidize personal care assistance services in accordance with this chapter for individuals eligible under section 3093.

§ 3093. Eligibility

An individual is eligible for a subsidy under section 3092 if he:

- 1. **Severe physical disability.** Has a severe physical disability;
- 2. **Employed.** Is employed or ready for employment;
- 3. **Need for services.** Has a need documented under section 3095 for no less than 14 nor more than 35 hours a week of personal care assistance services provided by a person other than a family member, which services are necessary to enable the individual to be employed;
- 4. **Not otherwise eligible.** Is not otherwise eligible for personal care assistance services under other state or federal programs;
- 5. **Agrees to reevaluation.** Agrees to a periodic reevaluation of his need for personal care assistance services and of the extent of that need; and
- 6. **Qualifying income.** Has an income which qualifies him under section 3094 for a personal care assistance subsidy.

§ 3094. Amount of subsidy

1. **Formula.** The bureau shall determine the amount of subsidy provided under section 3092 by the following formula:

- A. Compute the after-tax income of the individual for a 12-month period;
- B. Subtract \$1,260 from the after-tax income;
- C. Subtract 1/2 of the remainder determined under paragraph B; and
- D. Subtract \$3,504 from the remainder determined under paragraph C.

2. **Subsidy for full cost of services.** If there is no income remaining after the application of the formula outlined in subsection 1, the bureau shall subsidize the full cost for personal care assistance services provided to that individual.

3. **Partial subsidy.** If there is income remaining after application of the formula outlined in subsection 1, the cost to the bureau for personal care assistance services provided to that individual shall be reduced by the amount of that income.

§ 3095. Evaluation team report

1. **Team designation.** The director of the bureau shall designate one or more evaluation teams, which shall consist of at least 2 persons, one of whom shall be a registered nurse, licensed under Title 32, chapter 31, subchapter III, and one of whom shall be a registered occupational therapist.

2. **Duties.** Each individual who applies to the bureau for a personal care assistance services subsidy shall be evaluated by an evaluation team, which shall determine the need of that individual for personal care assistance services and the extent of that need.

3. **Redetermination.** An individual receiving a personal care assistance services subsidy under section 3092 shall be periodically reevaluated by an evaluation team to determine his continuing need for personal care assistance services and the extent of that need.

§ 3096. Rules

The director of the bureau may, acting under Title 5, chapter 375, make all rules necessary to carry out his duties under this chapter.

§ 3097. Legislative review

This chapter is subject to repeal under Title 1, section 2501. The legislative committee having jurisdiction over the review provided for in Title 1, section 2502, is the Joint Standing Committee on Health and Institutional Services. In addition to the contents required by Title 1, section 2503, the report prepared under that section shall also include:

- A. A determination as to the extent to which aid and services provided under this chapter remove disincentives to employment now embodied in federal law and thereby encourage severely physically disabled persons eligible for subsidy under this subtitle to secure employment suited to their disability;

B. A determination of the numbers and types of severely physically disabled persons in need of the subsidy provided under this chapter, including analysis of factors constituting that need; and

C. An assessment of the administration and delivery of that aid and those services and the cost effectiveness, advantages, disadvantages, problems and issues related to that administration and delivery.

Sec. 3. Appropriation. The following sums are appropriated from the General Fund to carry out the purposes of this Act.

	1979-80	1980-81
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Rehabilitation		
Positions	(1)	(1)
Personal Services	\$11,250	\$15,000
All Other	56,250	75,000
	Total	\$90,000
	\$67,500	\$90,000

STATEMENT OF FACT

The State presently pays for personal care services for a number of persons with no functional use of their arms or legs. These services are usually paid for using federal Medicaid or Medicare funds.

Many of these people would like to work and have prospective employers who are willing to employ them. They find that once they start drawing a salary, they become ineligible for continued Medicaid or Medicare funds to buy their needed personal services.

As these services, such as grooming, shaving and transfer into and out of a wheelchair, are costly, the wage that the disabled person earns is not enough to pay for these services. The person is then forced to quit his job and go back to Medicaid or Medicare subsidies.

The situation is clearly absurd. People who can work and want to work are forced into idleness because they cannot get the supportive services they need.

This bill provides a limited, low cost subsidy so that a worker with a severe physical disability can afford to buy the personal care services he needs to be able to go to work. The size of the subsidies are determined by the worker's income. A worker with a large salary who can afford to buy personal care services out of that salary will not be eligible for a subsidy.

The bill will enable severely disabled individuals to use their skills and ambition to make a useful contribution to Maine by working and competing in the open marketplace.