

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 933

S. P. 325

In Senate, February 19, 1981

Taken from the Table by Senator Conley of Cumberland and referred to the Committee on Health and Institutional Services. Sent down for concurrence and ordered printed. (Motion to refer to Committee on Appropriations and Financial Affairs last).

MAY M. ROSS, Secretary of the Senate

Presented by Senator Conley of Cumberland

Cosponsors: Senator Najarian of Cumberland, Senator Kerry of York and Representative Kelleher of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Require Home-Based Care as an Alternative to Nursing Home Care.

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

Sec. 1. 22 MRSA c. 406-A is enacted to read:

CHAPTER 406-A

PERSONAL CARE SERVICES

§ 1931. Legislative intent

The Legislature finds that home-based, long-term care services, as defined in section 3173, are not sufficiently available to many individuals of this State who desire those services; that inappropriate nursing home or boarding home placement places severe medical, emotional, social and economic burdens on the individual, the family of the individual and the State; and that it is desirable that restrictions on the delivery of home-based, long-term care services be reduced so that all persons desiring and needing these services shall have ready and practicable access thereto in their place of residence. The Legislature therefore declares that it is consistent with public policy to make available personal care

services as a necessary component of a comprehensive and coordinated home-based, long-term care system.

§ 1932. Definitions

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

1. **Functionally impaired persons.** "Functionally impaired person" means any person with physical or mental limitations that restrict individual ability to perform the normal activities of daily living and impede individual capacity to live independently with the provision of home-based services.

2. **Personal care services.** "Personal care services" mean medically oriented tasks having to do with a patient's physical requirements, as opposed to housekeeping requirements, which enable a patient to be treated by his physician on an out-patient rather than on an in-patient or institutionalized basis. The purpose of this care is to accommodate long-term maintenance or supportive care, as opposed to the short-term, skilled care requires for some acute illnesses. Generally, personal care services may include basic personal care and grooming, assistance with bladder or bowel requirements or problems assisting the patient with medications which are ordinarily self-administered, assistance with food, nutrition and diet activities, performing such household duties as are essential to the patient's health and comfort in his home and accompanying the patient on trips which are made for the purpose of obtaining medical diagnosis and treatment. Personal care services are provided to prevent inappropriate institutionalization, but only if the patient does not require skilled nursing care.

§ 1933. Authority and policy

It is the authority and policy of the State that:

1. **Availability.** Personal care services shall be readily and practically available to all functionally impaired persons assessed as needing the services and that those persons who are determined by the assessment to be at risk of institutionalization shall be given primary consideration; and

2. **Home-based, long-term care services.** The State shall give priority and preference for home-based, long-term care services in funding and availability with the long-range goal of correcting the inappropriate funding unbalance between institutional and home-based, long-term care services.

§ 1934. Rules and regulations

The Commissioner of Human Services shall adopt rules and regulations and establish programs to enable the Department of Human Services, either directly or under contractual agreements with other organizations, to promptly implement this chapter. In developing the rules and regulations, the department shall consult with the Maine Committee on Aging and with individual potential providers and their respective associations, including, but not limited to, the Maine Health Care Association, the Maine Association of Area Agencies on Aging,

the Maine Community Health Association and the Maine Homemaker-Home Health Council.

§ 1935. Funds

The Department of Human Services may receive and disburse such funds as may be available to it for personal care services to any organization, public or private, engaged in providing or able to provide the services.

§ 1936. Availability

To the extent that funds are available, the Department of Human Services shall provide personal care services to medically indigent persons eligible for such services as determined by rules and regulations promulgated by the Commissioner of Human Services. Personal care services shall also be available to all others who are unable to reasonably obtain these services privately, at a reasonable cost to be determined by the rules and regulations promulgated by the commissioner. Any funds so collected shall be retained by the department for the support of these services.

Sec. 2. 22 MRSA § 3172, sub-§ 3 is enacted to read:

3. Personal care services. "Personal care services" mean medically-oriented tasks having to do with a patient's physical requirements, as opposed to housekeeping requirements, which enable a patient to be treated by his physician on an out-patient rather than on an in-patient or institutionalized basis. The purpose of this care is to accommodate long-term maintenance or supportive care, as opposed to the short-term, skilled care required for some acute illnesses. Generally, personal care services may include basic personal care and grooming, assistance with bladder or bowel requirements or problems, assisting the patient with medications which are ordinarily self-administered, assistance with food, nutrition and diet activities, performing such household duties as are essential to the patient's health and comfort in his home, and accompanying the patient on trips which are made for the purposes of obtaining medical diagnosis and treatment. Personal care services are provided to prevent inappropriate institutionalization, but only if the patient does not require skilled nursing care.

Sec. 3. 22 MRSA § 3173, 2nd ¶, as repealed and replaced by PL 1979, c. 127, § 144, is amended to read:

The department is authorized and empowered to make all necessary rules and regulations consistent with the laws of the State for the administration of these programs including, but not limited to, establishing conditions of eligibility and types and amounts of aid to be provided, and defining the term "medically indigent," and the type of medical care to be provided. In administering programs of aid, the department shall, among other services, emphasize developing and providing financial support for preventive health care and home health care in order to assure that a comprehensive range of health care services is available to Maine citizens. Preventive health services shall include including, but need not be limited to, programs such as early periodic screening, diagnosis and treatment;

public school nursing services; child and maternal health services; and dental health education services. To meet the expenses of emphasizing preventive health care ~~and home health care~~, the department is authorized to expend for ~~each type of preventive health care~~ no less than 1.5% of the total sum of all funds available to administer medical or remedial care and services eligible for participation under the United States Social Security Act, Title XIX and amendments and successors to it.

Sec. 4. 22 MRSA § 3173, as repealed and replaced by PL 1979, c. 127, § 144, is amended by adding after the 2nd paragraph a new paragraph to read:

The department shall also develop and provide financial support to home-based, long-term care services, including, but not limited to, home health care and personal services, to assure that a comprehensive range of health and social services is made available to Maine adults in the least restrictive setting possible. Home-based, long-term care services mean services which are provided to a person in his home or in his community for the purpose of enabling him to remain independent and avoid institutionalization. The objective of these services is to secure and maintain maximum independence and dignity in a home environment for adults capable of self-care with appropriate supportive services. Such home-based, long-term care services shall be provided to individuals determined to be "medically indigent" if that individual would be a resident of a nursing home as defined in section 1817 or a boarding home as defined in section 7801 without these home-based services. To meet the expenses of providing home-based services, the department is authorized to expend for home-based, long-term care no less than 1.5% of the total sum of all funds available to administer medical or remedial care and services eligible for participation under the United States Social Security Act, Title XIX, as amended.

Sec. 5. 22 MRSA § 3173, 3rd ¶, as repealed and replaced by PL 1979, c. 127, § 144, is amended by adding at the end a new sentence to read:

The department shall provide all applicants for aid under this chapter who are seeking nursing home admission with information about home-based care services and agencies providing those services and shall make appropriate referrals to these agencies.

Sec. 6. **Inventory to Legislature.** The Department of Human Services shall annually provide an inventory of existing home-based, long-term care services and an analysis comparing the cost of insitutional care and the cost of home-based, long-term care, including personal care services to the Maine Legislature. The analysis shall emphasis potential savings to the State made by providing home-based, long-term care services, including personal care services. The analysis shall be presented to the Speaker of the House of Representatives and the President of the Senate by January 1, 1982 and annually thereafter.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1982-83	1983-84
HUMAN SERVICES, DEPARTMENT OF		
Bureau of Medical Services		
All Other	\$406,715	\$406,715
<p style="margin-left: 40px;">To provide funding for personal care services under the Social Security Act, Title XIX as provided in 42 Code of Federal Regulations 440.170 (f). Personal care services include medically related tasks prescribed by a physician, provided in a person's home. Personal care services may include personal health related care below the skilled care level, assistance with bladder or bowel requirements, assistance with food, nutrition and diet, provision of medical transportation, performance of household services and assistance with transfers. Any balance of funds appropriated to this account remaining at the end of a fiscal year shall not lapse, but shall be carried forward from year to year to be expended for the same purpose.</p>		
Bureau of Resource Development		
All Other	\$200,000	\$200,000
<p style="margin-left: 40px;">To provide funding for personal care services to non-Medicaid recipients who are assessed as needing these services.</p>		
Total	\$606,715	\$606,715

STATEMENT OF FACT

Maine has one of the highest percentages of elderly living in nursing homes of any state in the nation. The cost of nursing home care in Maine has risen 182% from 1975-1979 under Medicaid, causing a serious drain on the Maine Medicaid dollar. In 1979-80, \$98.31 of every \$100 available under Medicaid for long-term care paid from nursing home care, while only \$1.69 of every \$100 paid for home health services. It is imperative that immediate steps be taken to prevent premature

commitment of the elderly to institutions and instead to spend Maine's scarce dollars on services provided in people's homes.

This bill would require that an appropriate portion of Maine's funding resources be expended for caring for Maine citizens in their homes, as opposed to nursing homes and boarding homes.

As a first step to this goal, an appropriation of \$813,430 is requested for fund personal care services under Medicaid, and \$400,000 is requested to fund personal care services for non-Medicaid recipients. Such an appropriation would draw down a total of \$1,956,170 from the Federal Government in matching dollars. Personal care services would be responsive to the needs of the frail, functionally-impaired elderly and are less expensive than costly nursing home care. Furthermore, they are provided in people's homes, encouraging independence and dignity.

This bill was in response to a resolution voted by the 1980 Blaine House Conference on Aging, a statewide legislative meeting of over 400 elderly people, that 10% of the Medicaid budget be spent on home-based, long-term care. This is the first step toward meeting that goal. The Governor's Long Term Care Task Force supports the intent of this bill.