

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1308

H. P. 1103

House of Representatives, March 16, 1981

On Motion of Representative Connolly of Portland, referred to the Committee on Education. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Locke of Sebec.

STATE OF MAINE

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

AN ACT Establishing Procedures for the Approval of Rates for Children Requiring Special Education Services at Residential Treatment Centers and Allocating Financial Responsibility for the Costs of Those Placements.

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

Sec. 1. 20 MRSA c. 410 is enacted to read:

CHAPTER 410

**RESIDENTIAL TREATMENT OF
EMOTIONALLY DISTURBED CHILDREN**

§ 3401. Purpose

The purpose of this chapter is to establish procedures for the approval of rates for residential treatment centers for emotionally disturbed children and to allocate financial responsibility for the costs of those placements.

§ 3402. Definitions

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

1. **Board and care cost.** The "board and care cost" of a residential treatment center means the direct and indirect cost of providing for the basic physical and

biological needs of the children in residential treatment centers, including the direct costs and personnel costs for shelter, heat, food, supervision, health and personal client expenses.

2. **Mental health treatment costs.** The “mental health treatment cost” of a residential treatment center means the direct and indirect cost of providing mental health services, including professional services provided to children, their parents or residential treatment center staff members by state-licensed psychiatrists, clinical psychologists, certified social workers, physicians, nurses, laboratory technicians and other such medical personnel where the professional service relates directly to the emotional handicap of the child. Activities by child care staff may be considered as mental health treatment services when they are performed under direct, active supervision of the professionals listed in this chapter or to fulfill specific, written individual treatment prescriptions.

3. **Residential treatment center.** “Residential treatment center” means a facility that provides therapeutically planned group living situations within which educational, recreational, medical and socio-psychotherapeutic approaches are integrated for children whose problems preclude a less restrictive level of mental health service.

4. **Tuition cost.** “Tuition cost” of a residential treatment center means the direct and indirect cost of providing special education services, including classroom, home, institutional or other instructions; educational diagnosis and evaluation; transportation or other supportive services, activities or programs required by exceptional children.

§ 3403. Rate approval board

There is established a Residential Treatment Rate Approval Board to be composed of one person from the Department of Mental Health and Corrections, one person from the Department of Educational and Cultural Services and one person from the Department of Human Services, the board member from each department to be designated by the commissioner of that department. Each member of the board shall have a degree in accounting or a financial background and shall be employed by the department which he is designated to represent.

§ 3404 Procedures for setting rates

1. **Consultation.** After consultation with the residential treatment centers, the Residential Treatment Rate Approval Board shall adopt reasonable rules and regulations defining allowable costs for residential treatment centers and shall establish each year a reasonable adjustment factor to reflect the impact of inflation on these costs. The rules and regulations defining allowable costs and the inflation adjustment shall be based on sound accounting principles and shall ensure that approved rates reasonably reflect the cost of providing sound programming at each of the residential treatment centers for the year to which the rate is to be applicable.

2. **Submission of information.** On or before November 1st of each year, each

residential treatment center shall submit to the Residential Treatment Rate Approval Board financial reports detailing its allowable costs for the first 3 months of the current fiscal year, expected costs for the balance of the current year and proposed rates for the following fiscal year. Prior to submission, the cost information for the first 3 months of the current year shall have been verified by an independent auditor and shall be submitted on such forms as the Residential Treatment Rate Approval Board may require.

3. **Deadline for approval of rates.** On or before December 1st of each year, the Rate Approval Board, in consultation with each residential treatment center, shall approve the rate for that residential treatment center for the succeeding fiscal year. The rate approved by the board for each residential treatment center shall fairly and accurately reflect the projected allowable costs of that residential treatment center for the year to which the rate is to be applicable.

4. **Appeals.** Any residential treatment center aggrieved by a decision of the Residential Treatment Rate Approval Board may seek review in Superior Court by filing a complaint in accordance with the Rules of Civil Procedure, Rule 80B provided that the complaint shall be filed within 15 days of receipt of the decision. Upon the filing of the complaint, the court shall set the complaint for hearing at the earliest possible time and shall cause the residential treatment center and the board to be notified. Pending review, the residential treatment center shall be permitted to bill the agencies responsible for paying its costs on an interim basis at the rate established by the board, provided that any adjustment in the rate as a result of the review shall be retroactive to the beginning of the year to which the rate is applicable. The board shall immediately file the record of the board's proceedings which shall include all documents filed in the proceeding. After hearing, the court may affirm or modify the decision of the board or remand it to the board with specific instructions for modification.

5. **Application.** This chapter shall apply only to the costs of residential treatment which this State pays, reimburses or otherwise assists in funding in whole or in part. This chapter shall not apply to and the board shall have no regulatory authority over rates charged by residential treatment centers in cases where those rates are not paid, reimbursed or otherwise funded in whole or in part by this State.

§ 3405. Responsibility for costs of residential placement

The costs of residential treatment for children in residential treatment centers shall be allocated as follows.

1. **State wards.** For state wards the tuition costs shall be the responsibility of the Department of Educational and Cultural Services, and board and care costs and mental health treatment shall be the responsibility of the Department of Human Services.

2. **Nonstate wards.** For nonstate wards placed in residential treatment centers under applicable state or federal laws governing special education, the

local educational agency shall be responsible for tuition costs, the Department of Educational and Cultural Services shall be responsible for the board and care costs and the Department of Mental Health and Corrections shall be responsible for the mental health treatment costs.

Sec. 2. 20 MRSA § 4744, sub-§ 1, ¶L, as repealed and replaced by PL 1979, c. 670, § 20, is reenacted to read:

L. Board and care for pupils placed by administrative units in residential treatment centers for emotionally disturbed children.

Sec. 3. 20 MRSA § 4745, sub-§ 1, as enacted by PL 1977, c. 625, § 8, is amended to read:

1. Annual certification. Prior to December 15th of each year, the commissioner, with the approval of the State Board of Education, shall certify to the Bureau of the Budget the funding levels he recommends for section 4744, subsection 1, paragraphs A through ~~K~~ and M, and for the state's maximum obligation under section 4751, subsection 3.

Sec. 4. 20 MRSA § 4745, sub-§ 2, ¶B, as enacted by PL 1977, c. 625, § 8, is amended to read:

B. The requested funding levels of section 4744, subsection 1, paragraph D, subparagraphs (2) and (3) **and paragraph L** shall be computed by estimating those costs in the year of allocation of funds.

Sec. 5. 20 MRSA § 4746, first sentence, as enacted by PL 1977, c. 625, § 8, is amended to read:

The Bureau of the Budget shall annually certify to the Legislature the funding levels which the Governor recommends for section 4744, subsection 1, paragraphs A through ~~K~~ L and the state's maximum obligation under section 4751, subsection 3.

Sec. 6. 20 MRSA § 4747, sub-§ 13 is enacted to read:

13. Appropriation for nonstate wards in residential treatment centers. **Appropriate the necessary funds for board and care for nonstate wards placed in residential treatment centers for emotionally disturbed children.**

Sec. 7. Effective date. This Act shall become effective 90 days after adjournment of the first regular session of the 110th Legislature, except that Title 20, section 3405 shall not become effective until July 1, 1982.

STATEMENT OF FACT

This bill establishes in statute the procedures for approving rates for residential treatment centers. It provides that the rates must be approved by December 1st of each year by a board representing the 3 departments responsible for paying such costs; it requires that the rates fairly and accurately reflect the costs of such

treatment and provides for an appeal. The bill allocates the costs of residential treatment centers in the following manner: For state wards the tuition costs are to be paid by the Department of Educational and Cultural Services with the remaining costs to be paid by the Department of Human Services; for nonstate wards, the local educational agency is responsible for tuition, the Department of Educational and Cultural Services is responsible for board and care, and the Department of Mental Health and Corrections is responsible for mental health treatment costs.