

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1319

S. P 463

In Senate, March 17, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Gill of Cumberland.

Cosponsor: Senator Bustin of Kennebec.

STATE OF MAINE

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

AN ACT Requiring the Department of Human Services to Implement a Consumer directed Personal Care Assistance Program for Severely Physically Disabled Persons.

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

Sec. 1. 22 MRSA c. 717, first 3 lines, as enacted by PL 1979, c. 550, § 2, are repealed and the following enacted in its place:

CHAPTER 717

ASSISTANCE TO THE SEVERELY PHYSICALLY DISABLED

Sec. 2. 22 MRSA c. 717, sub-c I is enacted to read:

SUBCHAPTER I

INDIVIDUALS PRESENTLY NOT GAINFULLY EMPLOYED

§ 3081. Definitions

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

1. **Consumer directed.** "Consumer directed" means that the severely physically disabled individual will independently develop, control and utilize his

personal care assistance system and will be reimbursed directly for these services by the Bureau of Medical Services through a voucher billing system.

2. 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.

3. Personal care assistance services. "Personal care assistance services" means services 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.

4. Personal care assistant. "Personal care assistant" means an individual who has completed a training course of at least 40 hours, which includes instruction in such areas as basic personal care procedures such as grooming; bowel and bladder care; food, nutrition and diet planning; methods of making persons comfortable, transferring and assisting in mobility; and first aid in handling of emergencies.

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

6. Skills training. "Skills training" means instruction in any or all of the following:

- A. Personal health management, including all aspects of prevention, maintenance and treatment techniques to maximize personal well-being in relation to an individual's disability, given by a registered nurse experienced in the rehabilitation of the severely physically disabled;
- B. Personal care assistant management, including training in recruiting, hiring and managing an employee; scheduling, legal responsibilities and potential problems of a personal care assistant management system, provided by a registered nurse experienced in the rehabilitation of the severely physically disabled; and
- C. Functional skills; to maximize the individual's abilities in all activities of daily living, provided by a registered occupational therapist experienced in the rehabilitation of the severely physically disabled.

§ 3082. Assistance

The Department of Human Services shall provide consumer directed personal care assistance services in accordance with this chapter for individuals eligible under section 3083.

§ 3083. Eligibility

An individual is eligible for assistance under section 3082 if he:

1. Severe physical disability. Has a severe physical disability;
2. Employed. Is at present not gainfully employed, or is preparing for employment;
3. Need for services. Has a need documented under section 3085 for not 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 will enhance independence, may lead to gainful employment or prevent institutionalization;
4. Capability. Is capable, after skills training if needed as determined by the evaluation, of utilizing personal care assistance services;
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 3084 for personal care assistance services, or is a recipient of services from Title XIX funds.

§ 3084. Amount of assistance

1. Formula. The department shall determine the amount of assistance provided under section 3082 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 department 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 department for personal care assistance services provided to that individual shall be reduced by the amount of that income.

§ 3085. Evaluation team report

1. Team designation. The commissioner 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 department for personal care assistance services shall be evaluated by an evaluation team, which shall determine the need of that individual for personal care assistance services, the extent of that need, and the capability of the individual, at that time or after training, to hire and direct a personal care assistant.

3. Redetermination. An individual receiving personal care assistance services under section 3082 shall be periodically reevaluated by an evaluation team to determine his continuing need for personal care assistance services and the extent of that need.

Sec. 3. 22 MRSA c. 717, as amended, is further amended by inserting before § 3091 the following:

SUBCHAPTER II

INDIVIDUALS GAINFULLY EMPLOYED

Sec. 4. 22 MRSA § 3091, sub-§§ 1 and 2 as enacted by PL 1979, c. 550, § 2, are repealed.

Sec. 5. 22 MRSA § 3091, sub-§§ 1-A and 1-B are enacted to read:

1-A. Able to work. "Able to work" means engaged in activity of 20 or more hours per week for which the individual receives remuneration.

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

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purpose of this Act.

	1981-82	1982-83
HUMAN SERVICES, DEPARTMENT OF		
All Other	\$35,625	\$35,625

STATEMENT OF FACT

This bill establishes a program of personal care assistance services for persons who are at present not gainfully employed, similar to that established for disabled employed persons 2 years ago. By training disabled persons to hire assistants, these people will achieve greater independence of living, and may be able to prepare for a return to employment.

Services are provided now by home health care nurses and aides, who are usually available only during limited hours. The hiring of a personal care assistant

would allow for greater flexibility for assistance, when most appropriate for the disabled person.

The use of personal care assistants will result in considerable cost savings to the department. All costs would be Medicaid-reimbursable. The appropriation on this bill reflects the department's share, 30%, of the total cost of this program.