

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 572

6
7 S.P. 214

In Senate, February 14, 1985

8 Reference to the Committee on Human Resources suggested and ordered
9 printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Matthews of Kennebec.

Cosponsored by Senator Gauvreau of Androscoggin, Senator Tuttle of
11 York and Senator Perkins of Hancock.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Amend the Maine Certificate of Need
18 Act to Require More Timely Decision
19 Making on the Part of the Department
20 of Human Services.
21

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

24 Sec. 1. 22 MRSA §307, sub-§3, as enacted by PL
25 1977, c. 687, §1, is amended to read:

26 3. Reviews. To the extent practicable, a review
27 shall be completed and the department shall make its
28 decision within 90 days after the date of notifica-
29 tion under subsection 1. The department, ~~after con-~~
30 ~~sulting with the Health Systems Agency,~~ shall estab-
31 lish criteria for determining when it is not practi-
32 cable to complete a review within 90 days. Whenever
33 it is not practicable to complete a review within 90
34 days, the department, ~~after consultation with the~~
35 ~~Health Systems Agency,~~ may extend the review period
36 up to an additional 60 days. Any review period may be

1 extended with the written consent of the applicant.
2 If the Department fails to make its decision within
3 the time limitations set forth in this subsection the
4 project shall be deemed to be approved and the find-
5 ings required by section 309 shall be deemed ful-
6 filled.

7 Sec. 2. 22 MRSA §310, first ¶, as enacted by PL
8 1977, c. 687, §1, is amended to read:

9 Any person directly affected by a review may, for
10 good cause shown, request in writing a hearing for
11 the purposes of reconsideration of the decision of
12 the department to issue or to deny a certificate of
13 need. The department, if it determines that good
14 cause has been demonstrated, shall hold a hearing to
15 reconsider its decision. To be effective, a request
16 for the hearing shall be received within 30 days of
17 the department's decision. If the Department of Human
18 Services determines that good cause for a hearing has
19 been demonstrated, the hearing shall commence within
20 30 days of receipt of the request. The commissioner
21 shall preside at the hearing and shall issue a final
22 decision on the reconsideration request within 45
23 days following the commencement of the hearing. If
24 the commissioner fails to render a decision within
25 this time limitation the project shall be deemed to
26 be approved and findings required by section 309
27 shall be deemed fulfilled. For purposes of this sec-
28 tion, a request for a hearing shall be deemed to have
29 shown good cause if it:

1

STATEMENT OF FACT

2 This bill amends the Maine Certificate of Need
3 Act to require more timely decision making on the
4 part of the Department of Human Services. The exist-
5 ing law calls for a decision within 90 or 150 days,
6 but often this time is extended for several weeks or
7 months.

8 Section one of the bill mandates that if the de-
9 cision is not made in timely fashion, then a project
10 shall automatically be deemed approved. Section 2
11 similarly requires that reconsideration requests be
12 resolved promptly with final decisions due within 45
13 days following the convening of a hearing, with auto-
14 matic approval resulting otherwise. It also requires
15 the Commission of Human Services to chair such a
16 hearing.

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