

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 412

H.P. 313 House of Representatives, February 19, 1987  
Reference to the Committee on Human Resources suggested  
and ordered printed.

EDWIN H. PERT, Clerk  
Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Representatives LISNIK of Presque Isle,  
DELLERT of Gardiner, and Senator CLARK of Cumberland.

STATE OF MAINE

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

1 AN ACT to Promote Equity in Determining  
2 Medicaid Eligibility for  
3 Institutionalized Care.  
4

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

7 Sec. 1. 22 MRSA §3174, 5th ¶, as amended by PL  
8 1981, c. 703, Pt. A, §25, is repealed.

9 Sec. 2. 22 MRSA §3174-D is enacted to read:

10 §3174-D. Availability of income between married cou-  
11 ples in determination of eligibility

12 Notwithstanding this chapter, for the purpose of  
13 determining medical indigency and eligibility for as-  
14 sistance for an individual residing or about to re-

1 side in an institution eligible for Medicaid partici-  
2 pation under this section, there shall be a presump-  
3 tion, rebuttable by either spouse, that each spouse  
4 has a marital property interest in 1/2 of the total  
5 monthly income of both spouses at the time of appli-  
6 cation for medical assistance. Only the 1/2 interest  
7 of the applicant spouse shall be considered available  
8 to the spouse in determining eligibility for medical  
9 indigency and eligibility for assistance.

10 The marital property interest of the applicant  
11 spouse in the income of both spouses may be rebutted  
12 upon a showing of one of the following:

13 1. Court order. A court order allocating mari-  
14 tal income pursuant to alimony, spousal support, eq-  
15 uitable division of marital property or disposition  
16 of marital property;

17 2. Individual ownership. The establishing of  
18 sole individual ownership of income from current ac-  
19 tive employment; or

20 3. Supplementary allocation of spousal income.  
21 By applying to the Department of Human Services for a  
22 supplementary allocation of spousal income pursuant  
23 to this section.

24 The Department of Human Services shall establish  
25 standards for the reasonable and adequate support of  
26 the community spouse and the community residence of  
27 the couple. The standards shall consider the cost of  
28 housing payments, property taxes, property insurance,  
29 utilities, food, medical expenses, transportation,  
30 other personal necessities and the presence of other  
31 dependent persons in the home.

32 The community spouse may apply to the Department  
33 of Human Services for a determination pursuant to the  
34 standards that the community spouse requires a larger  
35 portion of the marital income. Therefore, a smaller  
36 portion of the marital income will be available to  
37 the applicant spouse in determining medical indigency  
38 and eligibility for assistance.

1 STATEMENT OF FACT

2 Current Medicaid procedures impose great hard-  
3 ships on a married couple when one member of that  
4 couple requires institutionalization. Most older  
5 couples plan carefully throughout their lives together,  
6 earning retirement benefits and setting aside  
7 savings in order to live as independently and comfortably  
8 as possible in retirement. Too few realize  
9 how fragile their retirement income can be if one  
10 spouse must be institutionalized and is forced to  
11 turn to Medicaid, the only government program that  
12 covers long-term care. In such circumstances frequently  
13 an excessively large portion of the couples  
14 income is allocated to the support of the institutionalized  
15 spouse. The spouse at home, the wife 80%  
16 of the time, is left with insufficient income for  
17 support of self and maintenance of the home and becomes  
18 pauperized.

19 Current rules of the United States Department of  
20 Health and Human Services do not adequately define  
21 the ownership and availability of income between married  
22 spouses in such circumstances. Therefore, it is  
23 appropriate for the Maine Legislature to establish  
24 the ownership and availability of the income between  
25 married couples when applying for medical assistance  
26 in such circumstances.

27

1370020987