

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 685

H.P. 505

House of Representatives, March 7, 1989

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Speaker MARTIN of Eagle Lake.

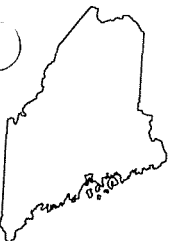
Cosponsored by Senator PERKINS of Hancock, Representative CARROLL of Gray and Representative LISNIK of Presque Isle.

STATE OF MAINE

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

**An Act to Provide the Reasonable Costs of Wages Paid to Employees of
Long-term Care Facilities.**

(EMERGENCY)



1 **Emergency preamble.** Whereas, Acts of the Legislature do not
2 become effective until 90 days after adjournment unless enacted
3 as emergencies; and

4 Whereas, nursing homes are facing a financial crisis due to
5 the labor shortage in health care occupations; and
6

7 Whereas, reimbursement under the Medicaid program for
8 services provided to eligible patients has fallen far behind the
9 costs of staffing to provide those services; and
10

11 Whereas, in the judgment of the Legislature, these facts
12 create an emergency within the meaning of the Constitution of
13 Maine and require the following legislation as immediately
14 necessary for the preservation of the public peace, health and
15 safety; now, therefore,
16

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

18 22 MRSA §1708, sub-§2, as repealed and replaced by PL 1975,
19 c. 365, §1, is amended to read:
20

21 2. **Compensation for nursing homes.** A nursing home, as
22 defined under section 1812-A, or any portion of a hospital or
23 institution operated as a nursing home, when the State is liable
24 for payment for care, shall be reimbursed at a rate established
25 by the Department of Human Services pursuant to this subsection.
26 ~~The department shall not establish a so-called "flat rate." The~~
27 ~~department shall establish for each nursing home a payment rate~~
28 ~~or payment rates relating to various types of care provided in a~~
29 ~~nursing home. Such rate or rates shall be based on the operating~~
30 ~~costs attributable to each nursing home as determined by such~~
31 ~~accounting and auditing standards and procedures as the~~
32 ~~department may establish.~~ The provisions of this subsection shall
33 apply to all funds, including federal funds, paid by any agency
34 of the State to a nursing home for patient care. ~~The provisions~~
35 ~~of this subsection shall apply, notwithstanding any other~~
36 ~~provisions of law.~~
37

38 A. The department shall establish for each nursing home a
39 payment rate or payment rates relating to various types of
40 care provided in a nursing home. The rate or rates shall be
41 based on the operating costs attributable to each nursing
42 home as determined by such accounting and auditing standards
43 and procedures as the department may establish.
44

45 B. The department shall not establish a maximum limit on
46 reimbursement for adjustments to the prospective rate for
47 staff wages, nor shall the department establish a so-called
48 "flat rate."
49

1 C. The department shall adjust the payment rate for each
2 nursing home to reflect the nursing home's actual costs for
3 wages and benefits for all employees as of January 1, 1989.

4 Facilities that demonstrate that their costs for wages and
5 benefits on January 1, 1989, do not accurately reflect
6 conditions in the labor market in which they are located may
7 request additional increases.

8
9
10 D. In any subsequent year, if a nursing home's costs for
11 wages and benefits exceed the amount of reimbursement for
12 wages and benefits, the excess cost shall be shared 1/2 by
13 the nursing home and 1/2 by the department.

14 E. The department shall use the "skilled nursing facility"
15 market basket forecasts published quarterly by Data
16 Resources Incorporated, or DRI, to determine the annual
17 increase in the payment rate or rates to each nursing home,
18 except that the wage component of the DRI increase will be
19 replaced by a component which reflects the wage proxy values
20 established by the Maine Health Care Finance Commission to
21 forecast the appropriate changes in wages and benefits for
22 employees of hospitals.

23
24 F. The department shall amend the state health plan and any
25 applicable state regulation to rescind its election to apply
26 the cost limits established under Medicare pursuant to 42
27 Code of Federal Regulations, Section 447.252 (c).

28
29
30 Emergency clause. In view of the emergency cited in the
31 preamble, this Act shall take effect when approved.

32
33
34
35 **STATEMENT OF FACT**

36
37 Because of the wide-spread shortage of nursing and other
38 health care personnel, long-term care facilities have been
39 required to increase wages and benefits at a rate faster than the
40 Medicaid payment rate. The result has been continued and
41 sustained losses to Maine's 134 nursing homes.

42
43 While nursing homes have been able to request and be granted
44 additional payments to increase nursing staff wages, those
45 increases have been entirely inadequate to cover the costs
46 incurred to meet the demands of the labor market. The regulatory
47 process for requesting special wage adjustments has also proved
48 to be lengthy and unwieldy for both the nursing homes and the
49 Department of Human Services. In addition, nursing homes have
50 been prevented from seeking reimbursement for wage increases and
51 fringe benefits for nonnursing personnel such as housekeeping,

1 laundry, maintenance, administrative, dietary, social service and
activities employees.

3

5 The bill is designed as an interim measure to adjust for the
drastic increases in wages and benefits until a new reimbursement
7 system, such as "Case Mix," is developed to replace the
prospective payment system.

9 This bill directs the Department of Human Services to rebase
the Medicaid payment rate to long-term care facilities,
11 reflecting the facilities' actual costs of all employee wages.
If facilities' costs for wages and benefits on January 1, 1989,
13 do not reflect the prevailing wage rates in the labor market for
similar employees, they may request increases from the department
15 on a case-by-case basis.

17 The bill maintains the current system of sharing savings by
the nursing home and the department and adds a system of sharing
19 excess costs of wages and benefits.

21 The bill also prevents the department from using its current
system of artificial caps on employee wages and directs the
23 department to remove the optional Medicare cap on a facility's
routine service costs.

25

27 Finally, the bill establishes a common wage proxy system for
health care workers that will allow nursing homes to increase
wages annually at rates consistent with increases paid to
29 hospital employees.