

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1696

H.P. 1224

House of Representatives, May 24, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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 CLARK of Cumberland, Representative MELENDY of Rockland and Representative COTE of Auburn.

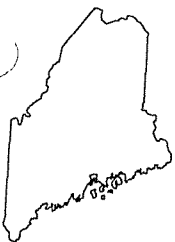
STATE OF MAINE

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

An Act to Establish a Program to Prevent Spousal Impoverishment.

(AFTER DEADLINE)

(EMERGENCY)



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

5 Whereas, spousal impoverishment remains an unfortunate
reality for the spouse residing in the community when the other
7 spouse requires nursing home care funded by the Medicaid program;
and

9 Whereas, the 113th Legislature enacted legislation
11 appropriating money to address this problem once federal
legislation was passed permitting states to equitably define
13 availability of income between married persons; and

15 Whereas, the federal Medicare Catastrophic Coverage Act of
1988 addressing spousal impoverishment does not become effective
17 until October 1, 1989; and

19 Whereas, state funds are available to develop an emergency
program to immediately assist those spouses residing in the
21 community being impoverished due to existing law until federal
law becomes effective; and

23 Whereas, in the judgment of the Legislature, these facts
25 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
27 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

31 **Sec. 1. 22 MRSA §3174-D, as enacted by PL 1987, c. 395, Pt.**
33 **B, §2, and c. 834, §2, is repealed and the following enacted in**
its place:

35 **§3174-D. Medicaid coverage for services provided by the Governor**
37 **Baxter School for the Deaf**

39 The Department of Human Services may administer a program of
41 Medicaid coverage for speech and hearing services, psychological
services, occupational therapy and any other services provided by
43 the Governor Baxter School for the Deaf which qualify for
reimbursement under the United States Social Security Act, Title
45 XIX. The Department of Educational and Cultural Services shall
have fiscal responsibility for providing the State's match for
47 federal revenues acquired under this section. An amount equal to
the Medicaid reimbursement shall be deposited into the General
49 Fund undedicated revenue from the Governor Baxter School for the
Deaf General Fund appropriation.

1 Sec. 2. 22 MRSA §3174-E, as enacted by PL 1987, c. 831, §1;
3 c. 836, §§1 and 4; and c. 847, §4, is repealed and the following
 enacted in its place:

5 §3174-E. Interim assistance agreement

7 The department, with the approval of the Governor and on
9 behalf of the State, may enter into an agreement with the United
11 States Social Security Administration for the purpose of
 receiving reimbursement for interim assistance payments as
 provided by the United States Social Security Act.

13 Sec. 3. 22 MRSA §§3174-F, 3174-G, 3174-H and 3174-I are enacted
15 to read:

17 §3174-F. Coverage for adult dental services

19 1. Coverage provided. The Department of Human Services
21 shall provide dental services, reimbursed under the United States
 Social Security Act, Title XIX, or successors to it, to
 individuals 21 years of age and over, limited to:

23 A. Acute surgical care directly related to an accident
25 where traumatic injury has occurred. This coverage will
 only be provided for the first 3 months after the accident;

27 B. Oral surgical and related medical procedures not
 involving the dentition and gingiva;

29 C. Extraction of teeth which are severely decayed and which
31 pose a serious threat of infection during a major surgical
33 procedure of the cardiovascular system, the skeletal system
 or during radiation therapy for a malignant tumor;

35 D. Treatment necessary to relieve pain, eliminate
37 infection, prevent imminent tooth loss; and

39 E. The provision of total dentures when necessary to
41 correct masticatory deficiencies likely to impair general
 health, including necessary adjustments, relines, repairs
 and replacements.

43 2. Report and study. The Bureau of Medical Services shall,
45 prior to January 30, 1990:

47 A. Report to the joint standing committee of the
49 Legislature having jurisdiction over human resource matters
 on the experience of this program, including:

51 (1) The number of individuals assisted by the program;

 (2) The services provided to those individuals;

1 (3) The cost of services provided;

3 (4) Any significant limitations that have become
5 apparent in the scope of service provided; and

7 (5) Recommendations and rationale for any expansion of
9 service that appears necessary; and

11 B. Study the feasibility of contracting with a prepaid
13 dental plan, health maintenance organization or other entity
15 for the provision of Medicaid dental services to individuals
17 21 years of age and over and submit the results of that
19 study, together with any recommendations, to the joint
21 standing committee of the Legislature having jurisdiction
23 over human resource matters.

25 §3174-G. Medicaid coverage of certain elderly and disabled
27 individuals, children and pregnant women

29 1. Delivery of services. The department shall provide for
31 the delivery of federally approved Medicaid services to qualified
33 pregnant women up to 60 days following delivery and infants up to
35 one year of age when the woman's or child's family income is
37 below 185% of the nonfarm income official poverty line and
39 children under 5 years of age and qualified elderly and disabled
41 persons, when the child's or person's family income is below 100%
43 of the nonfarm income official poverty line. The official
45 poverty line shall be that applicable to a family of the size
47 involved, as defined by the Federal Office of Management and
49 Budget and revised annually in accordance with the United States
51 Omnibus Budget Reconciliation Act of 1981, Public Law 97-35,
 Section 673, Subsection 2. These services shall be effective
 October 1, 1988.

2. Resource test. The department may not apply a resource
 test to those children and pregnant women who are made eligible
 under this section, unless these persons also receive Aid to
 Families with Dependent Children or United States Supplemental
 Security Income benefits.

3. Benefits authorized. The scope of medical assistance to
 be provided within this section shall be that authorized by the
 United States Omnibus Budget Reconciliation Act of 1986, Public
 Law 99-509, Subtitle E.

§3174-H. Availability of income between married couples in
 determination of eligibility

Notwithstanding this chapter, for the purpose of determining
 medical indigency and eligibility for assistance for an
 individual residing or about to reside in an institution eligible

1 for Medicaid participation under this section, there shall be a
3 presumption, rebuttable by either spouse, that each spouse has a
5 marital property interest in 1/2 of the total monthly income of
7 both spouses at the time of application for medical assistance.
9 Only the 1/2 interest of the applicant spouse shall be considered
11 available to the spouse in determining eligibility for medical
13 indigency and eligibility for assistance.

15 The marital property interest of the applicant spouse in the
17 income of both spouses may be rebutted upon a showing of one of
19 the following:

21 1. Court order. A court order allocating marital income
23 pursuant to alimony, spousal support, equitable division of
25 marital property or disposition of marital property;

27 2. Individual ownership. The establishing of sole
29 individual ownership of income from current active employment; or

31 3. Supplementary allocation of spousal income. By applying
33 to the Department of Human Services for a supplementary
35 allocation of spousal income pursuant to this section.

37 The Department of Human Services shall establish standards
39 for the reasonable and adequate support of the community spouse
41 and the community residence of the couple. The standards shall
43 consider the cost of housing payments, property taxes, property
45 insurance, utilities, food, medical expenses, transportation,
47 other personal necessities and the presence of other dependent
49 persons in the home.

51 The community spouse may apply to the Department of Human
53 Services for a determination pursuant to the standards that the
55 community spouse requires a larger portion of the marital income.
57 Therefore, a smaller portion of the marital income will be
59 available to the applicant spouse in determining medical
61 indigency and eligibility for assistance.

63 As soon as authorized by federal law, the department shall
65 implement this section.

67 §3174-I. Spousal impoverishment program

69 1. Program established. The Department of Human Services
71 shall create and implement a state-funded spousal impoverishment
73 program to supplement the income of the spouse residing in the
75 community when the other spouse has been institutionalized.

77 2. Medicaid income allocation. This section does not
79 affect the Medicaid income allocation between spouses when one
81 spouse receives Medicaid in an institution.

