

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2081

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H.P. 1501

House of Representatives, January 4, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

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 Representative LISNIK of Presque Isle.

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STATE OF MAINE

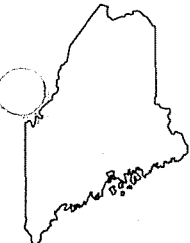
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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**An Act Concerning Availability of Income Between Spouses in the  
Determination of Medicaid Eligibility for Nursing Home Level Care.**

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

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4 22 MRSA §3174-H, as enacted by PL 1989, c. 502, Pt. A, §72,  
is repealed and the following enacted in its place:

6 §3174-H. Availability of income between married couples in  
8 determination of eligibility

10 Notwithstanding any other provision of this chapter, for the  
12 purpose of determining medical indigency and eligibility for  
14 assistance for an individual residing, about to reside or  
16 medically eligible to reside in an institution eligible for  
18 Medicaid participation under this section, there shall be a  
20 presumption, rebuttable by either spouse, that the individual's  
spouse has a marital property interest in 1/2 of the total  
monthly income of both spouses at the time of application for  
medical assistance. Only the actual income or the 1/2 interest  
of the applicant spouse, whichever is less, shall be considered  
available to the spouse in determining medical indigency and  
eligibility for assistance.

22 The Department of Human Services shall immediately extend  
24 the benefits of the spousal impoverishment provisions of the  
26 federal Medicare Catastrophic Coverage Act of 1988, as amended,  
to persons receiving nursing home-level care at home under the  
Medicaid waiver program.

28  
30 STATEMENT OF FACT

32 Currently, state law appears to allow deeming of income from  
34 a community spouse to an institutionalized spouse in some  
36 situations. This bill eliminates a conflict with the federal  
38 Medicare Catastrophic Coverage Act of 1988 by requiring that no  
more than 1/2 of the couple's income or the income of the  
applicant spouse, whichever is less, be considered available to  
an institutionalized spouse.

40 The state Department of Human Services does not apply the  
42 spousal impoverishment provisions of the Medicare Catastrophic  
44 Coverage Act of 1988 to individuals receiving nursing home care  
46 in their homes. Because of the benefits to persons who are  
48 institutionalized, community spouses may be discouraged from  
continuing to struggle physically, emotionally and financially  
with the provision of home care to their spouses and will be more  
likely to seek nursing home placements for them. This bill  
directs the department to extend the benefits to couples  
receiving waiver services in their homes.

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