

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 895

H.P. 625

House of Representatives, February 28, 1991

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 Representative DAGGETT of Augusta.

Cosponsored by Senator TITCOMB of Cumberland, Speaker MARTIN of Eagle Lake and Representative MANNING of Portland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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

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

2  
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is repealed and the following enacted in its place: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**  
8 **couples in 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 is 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, is 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 care at home at the nursing home level under  
the Medicaid waiver program.

28  
30 **STATEMENT OF FACT**

32 This bill eliminates a conflict with the Federal Medicare  
34 Catastrophic Coverage Act of 1988 by requiring that no more than  
36 1/2 of the couple's income or the income of the applicant spouse,  
whichever is less, be considered available to an  
institutionalized spouse.

38 The state Department of Human Services does not apply the  
40 spousal impoverishment provisions of the Medicare Catastrophic  
42 Coverage Act of 1988 to individuals receiving nursing home care  
44 in their homes. Because of the benefits to persons who are  
46 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.