

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

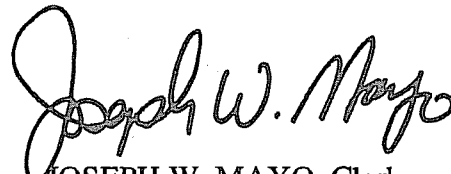
No. 418

H.P. 330

House of Representatives, February 9, 1993

An Act to Promote Maximum Independence of Older People.

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


JOSEPH W. MAYO, Clerk

Presented by Representative TREAT of Gardiner.
Cosponsored by Representative RYDELL of Brunswick, Senator PARADIS of Aroostook and
Representatives: COLES of Harpswell, CONSTANTINE of Bar Harbor, MARSH of West
Gardiner, MITCHELL of Freeport, OLIVER of Portland, PENDEXTER of Scarborough,
PFEIFFER of Brunswick, SIMONDS of Cape Elizabeth, STEVENS of Sabattus, Senators:
BALDACCI of Penobscot, HARRIMAN of Cumberland, McCORMICK of Kennebec.

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

2
3 Sec. 1. 22 MRSA §3174-I, sub-§1, as enacted by PL 1989, c.
4 498, is amended to read:

6 1. **Needs assessment.** ~~The Department of Human Services may~~
7 department shall assess the medical and social needs of each
8 applicant to a nursing home facility who is reasonably expected
9 to become financially eligible for Medicaid benefits within 180
10 days of admission to the nursing home facility.

12 A. The assessment shall must be completed prior to
13 admission or, if necessary for reasons of the person's
14 health or safety, as soon after admission as possible.

16 B. The department shall determine whether the services
17 provided by the facility are medically or socially necessary
18 and appropriate for the applicant and, if not, what other
19 services, such as home and community-based services, would
20 more appropriately address the applicant's medical needs.

22 C. The department shall inform both the applicant and the
23 administrator of the nursing home facility of the
24 department's determination of the services needed by the
25 applicant and shall provide information and assistance to
26 the applicant in accordance with subsection 1-A.

28 D. Until such time as the applicant becomes financially
29 eligible to receive Medicaid benefits, the department's
30 determination shall ~~be~~ is advisory only.

32 E. The department shall perform a reassessment of the
33 individual's medical needs when the individual becomes
34 financially eligible for Medicaid benefits.

36 (1) If the individual, at both the admission
37 assessment and any reassessment within 180 days of
38 admission, is determined not to be medically eligible
39 for the services provided by the nursing home facility,
40 and is determined not to be medically eligible at the
41 time of the determination of financial eligibility, the
42 nursing home ~~shall be~~ facility is responsible for
43 providing services at no cost to the individual until
44 such time as a placement at the appropriate level of
45 care becomes available. After a placement becomes
46 available at an appropriate level of care, the nursing
47 home facility may resume billing the individual for the
48 cost of services.

2 (2) If the individual is initially assessed as needing
3 the nursing home's facility's services, but reassessed
4 as not needing them at the time the individual is found
5 financially eligible, then Medicaid shall reimburse the
6 nursing home facility for services it provides to the
7 individual in accordance with the Maine Medical
8 Assistance Manual, chapter II, section 50.

9
10 F. Prior to performing assessments under this section, the
11 department shall develop and disseminate to all nursing
12 homes facilities and the public the specific standards the
13 department will use to determine the medical eligibility of
14 an applicant for admission to the nursing home facility. A
15 copy of the standards shall must be provided to each person
16 for whom an assessment is conducted.

17 G. A determination of medical eligibility under this
18 section is final agency action for purposes of the Maine
19 Administrative Procedure Act, Title 5, chapter 375.

20 **Sec. 2. 22 MRSA §3174-I, sub-§1-A is enacted to read:**

21
22 1-A. Nursing facility diversion. After completing an
23 assessment pursuant to subsection 1, regardless of whether the
24 assessment has found nursing facility care appropriate, the
25 department shall determine whether the applicant could live
26 appropriately at home or in some other community-based setting if
27 certain home-based or community-based services were available to
28 the applicant. If the department determines that a home or other
29 community-based setting is appropriate, the department shall:

30
31 A. Advise the applicant that a home or other
32 community-based setting is appropriate;

33
34 B. Inform the applicant regarding the services that are
35 available at home or in some other community-based setting;
36 and

37
38 C. Provide case management services to the applicant if the
39 applicant chooses a home-based or community-based
40 alternative to nursing facility care.

41
42 **Sec. 3. 22 MRSA §3174-I, sub-§2, as enacted by PL 1989, c.**
43 **498, is amended to read:**

44
45 **2. Assessment for mental illness or retardation.** The
46 ~~Department--of--Human--Services~~ department shall assess every
47 applicant to a nursing home facility to screen for mental
48 retardation and mental illness in accordance with the Federal
49 Omnibus Budget Reconciliation Act of 1987, Public Law 100-203,
50

2 Section 4211. Such assessments are intended to increase the
3 probability that any individual who is mentally retarded or
4 mentally ill will receive active treatment for that individual's
5 mental condition.

6
7 **STATEMENT OF FACT**

8
9 This bill strengthens the State's current nursing home
10 preadmission screening process by making it mandatory for
11 prospective Medicaid recipients and by adding a nursing home
12 diversion component. In addition to evaluating the
13 appropriateness of nursing home care, the diversion component
14 would require the Department of Human Services to inform nursing
15 home applicants if appropriate home or community-based care could
16 be arranged. If home or other community-based care could be
17 arranged and the applicant wanted those services, the Department
18 of Human Services would provide case management services to the
19 applicant.

20
21 The bill also replaces references to "nursing home" with the
22 term "nursing facility" to make the law consistent with federal
23 Medicaid regulations.