

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1730

S.P. 668

In Senate, January 23, 1996

**An Act to Require the Department of Human Services to Base Eligibility
for Medicaid Reimbursement for Nursing Facility Care on a Person's
Entire Medical Condition.**

(EMERGENCY)

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 "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator PINGREE of Knox.
Cosponsored by Representative TREAT of Gardiner and
Senators: BERUBE of Androscoggin, BUSTIN of Kennebec, CAREY of Kennebec,
CIANCHETTE of Somerset, CLEVELAND of Androscoggin, ESTY of Cumberland,
FAIRCLOTH of Penobscot, GOLDTHWAIT of Hancock, HARRIMAN of Cumberland,
LAWRENCE of York, LONGLEY of Waldo, MICHAUD of Penobscot, MILLS of Somerset,
O'DEA of Penobscot, PARADIS of Aroostook, RAND of Cumberland, RUHLIN of
Penobscot, Representatives: ADAMS of Portland, BENEDIKT of Brunswick, BERRY of
Livermore, BRENNAN of Portland, BUNKER of Kossuth Township, CAMERON of
Rumford, CHARTRAND of Rockland, CHIZMAR of Lisbon, CLARK of Millinocket,
CLOUTIER of South Portland, DAGGETT of Augusta, DAVIDSON of Brunswick,
DESMOND of Mapleton, DiPIETRO of South Portland, DONNELLY of Presque Isle, DORE
of Auburn, ETNIER of Harpswell, FISHER of Brewer, FITZPATRICK of Durham, GERRY
of Auburn, GOULD of Greenville, GREEN of Monmouth, GWADOSKY of Fairfield,
HEESCHEN of Wilton, JACQUES of Waterville, JOHNSON of South Portland, JONES of
Bar Harbor, JOSEPH of Waterville, KERR of Old Orchard Beach, KILKELLY of Wiscasset,

Additional cosponsors on next page

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KONTOS of Windham, LaFOUNTAIN of Biddeford, LEMAIRE of Lewiston, LEMKE of Westbrook, LOOK of Jonesboro, LUTHER of Mexico, McALEVEY of Waterboro, MITCHELL of Vassalboro, MITCHELL of Portland, MORRISON of Bangor, PLOWMAN of Hampden, POULIOT of Lewiston, RICE of South Bristol, ROSEBUSH of East Millinocket, SAMSON of Jay, SAVAGE of Union, SAXL of Bangor, SAXL of Portland, SHIAH of Bowdoinham, SIMONEAU of Thomaston, STEVENS of Orono, TOWNSEND of Portland, TUTTLE of Sanford, TYLER of Windham, WATSON of Farmingdale, WINGLASS of Auburn.

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

4
6 **Whereas,** the Department of Human Services has implemented
extremely strict medical eligibility criteria for Medicaid
nursing facility assistance, which is commonly referred to by the
8 name of the assessment form "MED-94"; and

10 **Whereas,** the MED-94 limits the review of an applicant's
medical condition to the 7 days immediately prior to the day of
12 the assessment, thereby precluding a comprehensive assessment
based on the applicant's complete medical condition; and

14
16 **Whereas,** a 7-day period does not provide a sufficient basis
by which to determine a person's long-term care needs and in many
cases penalizes applicants for having an atypical week of
18 relatively good health; and

20 **Whereas,** alternatives to nursing facility level of care
continue to be grossly inadequate, particularly alternative
22 settings that are capable of providing a high level of care to
frail elderly citizens; and

24
26 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
28 necessary for the preservation of the public peace, health and
safety; now, therefore,

30
32 **Be it enacted by the People of the State of Maine as follows:**

34 **Sec. 1. Nursing facility care assessment.** The Department of Human
Services shall adopt rules amending the Medical Eligibility
36 Determination form and Chapter 67 of the Maine Medical Assistance
Manual regarding assessment for eligibility for Medicaid
reimbursement for nursing facility care as follows.

38
40 The department shall consider in the assessment the
applicant's entire medical and social condition for 30 days prior
to the assessment.

42
44 The applicant must be considered to be in need of any
service that is required to be delivered by or under the
supervision of registered professional nursing personnel on 3 or
46 more days in any 14-day period during the 30 days prior to the
assessment.

2 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

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STATEMENT OF FACT

8 This bill requires the Department of Human Services to adopt
rules amending the Medical Eligibility Determination form and
10 Chapter 67 of the Maine Medical Assistance Manual so that
applicants for Medicaid reimbursement for nursing facility care
12 are evaluated based on their entire medical and social condition
for 30 days prior to the assessment and so that nursing needs are
14 recognized if they are required on 3 or more days during any
14-day period in the 30 days prior to the assessment.