

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1973

S.P. 698

In Senate, March 23, 1999

**An Act to Increase the Availability of Home Care Services for Maine's
Elderly.**

(EMERGENCY)

Reference to the Committee on Appropriations and Financial Affairs suggested and
ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BENNETT of Oxford.

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

4 Whereas, there now exists a waiting list of elderly and
6 disabled individuals for in-home and community support services
programs; and

8 Whereas, because they lack in-home services, these
10 individuals are at risk for inappropriate placement in
institutional long-term care settings; and

12 Whereas, additional funding is critical for the provision
14 of services that will allow these elderly and disabled
individuals to remain in their homes and avoid institutional
16 placement; and

18 Whereas, emergency legislation is required to provide such
funding; and

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

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

28
30 **Sec. 1. 26 MRSA §8** is enacted to read:

32 **§8. Exemption; home health care workers**

34 For purposes of exemption from this Title, "employer" does
36 not include an individual or the family of that individual who
directly contracts with a home health care worker for the
38 provision of services. As used in this section, "home health
care worker" means an individual directly engaged in providing
40 acute, restorative, rehabilitative, maintenance, preventive or
health promotion services through professional nursing or another
42 therapeutic service, such as physical therapy, home health aid,
nursing assistance, medical social work, nutritionist services or
44 personal care services in a patient's place of residence. If a
patient or the family of a patient contracts with a home health
46 care worker through the use of an agency, the home health care
worker is deemed an employee of that agency.

48 **Sec. 2. 39-A MRSA §102, sub-§11, ¶F** is enacted to read:

50 F. "Employee" does not include a home health care
52 worker, if that home health care worker contracts
directly with the patient or the patient's family. For

2 purposes of this paragraph, "home health care worker"
 4 means an individual directly engaged in providing
 6 acute, restorative, rehabilitative, maintenance,
 8 preventive or health promotion services through
 10 professional nursing or another therapeutic service,
 12 such as physical therapy, home health aid, nursing
 assistance, medical social work, nutritionist services
 or personal care services in a patient's place of
 residence. If a patient or the family of a patient
 contracts with a home health care worker through the
 use of an agency, the home health care worker is deemed
 an employee of that agency.

14 **Sec. 3. Appropriation.** The following funds are appropriated
 16 from the General Fund to carry out the purposes of this Act.

	1999-00	2000-01
HUMAN SERVICES, DEPARTMENT OF		
Elder and Adult Services,		
Bureau of		
24 All Other	\$750,000	\$750,000
26 Provides funds to eliminate		
28 the waiting list for in-home		
services.		
Long-term Care -		
Human Services		
32 All Other	\$750,000	\$750,000
34 Provides funds to eliminate		
36 the waiting list for the		
38 Home-based Care program.		
Elder and Adult Services,		
Bureau of		
42 All Other	\$750,000	\$750,000
44 Provides funds for adult day		
46 care services for persons		
with Alzheimer's disease.		
Elder and Adult Services,		
Bureau of		
50 All Other	\$750,000	\$750,000
52		

2 Provides funds for Alzheimer
respite care.

4 **DEPARTMENT OF HUMAN SERVICES**
6 **TOTAL** \$3,000,000 \$3,000,000

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

12 **SUMMARY**

14
16 This bill exempts an individual who contracts with a home
18 health care worker to provide health care services to that
20 individual from the employment laws, such as minimum wage, hours
22 and unemployment insurance provisions and from the workers'
compensation provisions. This exemption only applies, if the
worker contracts directly with the patient or the patient's
family. A home health care worker who is contracted with using
an agency is considered the employee of that agency.

24 This bill also appropriates \$3,000,000 from the General Fund
26 for fiscal years 1999-00 and 2000-01 to the Department of Human
28 Services, Bureau of Elder and Adult Services for the purpose of
eliminating waiting lists of elderly and disabled individuals now
30 requiring home-based care services, homemaker services, Alzheimer
respite and Alzheimer adult day care services. These services
32 allow these individuals to remain in their homes and avoid
inappropriate and expensive institutional services.