

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 640

H.P. 500

House of Representatives, February 8, 2001

Resolve, to Ensure Consumer Access to Home Care Services.

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative KANE of Saco.
Cosponsored by Senator PENDLETON of Cumberland and
Representatives: COLWELL of Gardiner, FULLER of Manchester, SNOWE-MELLO of
Poland, TARAZEWICH of Waterboro, TWOMEY of Biddeford.

Sec. 1. Rule amendment regarding rights to appeal. Resolved:

2 That the Department of Human Services shall review and amend the
4 rules regarding the home care program in order to give consumers
6 60 days to appeal a determination, reduction, termination or
8 denial of benefits. The department must consider whether to
10 grant to consumers appeal rights comparable to the Medicaid
12 program. Rules adopted pursuant to this section are major
14 substantive rules as defined by the Maine Revised Statutes, Title
16 5, chapter 375, subchapter II-A; and be it further

Sec. 2. Rule amendment regarding the computation of time.

Resolved: That the Department of Human Services shall review and
12 amend the rules regarding the home care program to compute time
14 as follows.

16 1. The time period begins the day after the date of the act
18 or failure to act.

20 2. If the time period ends on a Saturday, Sunday or
22 holiday, the time period ends on the next business day.

24 3. If the time period is less than 7 days, Saturday, Sunday
26 and legal holidays do not count.

28 Rules adopted pursuant to this section take effect September
30 1, 2001. Rules adopted pursuant to this section are major
32 substantive rules as defined by the Maine Revised Statutes, Title
34 5, chapter 375, subchapter II-A; and be it further

Sec. 3. Rule amendment regarding date of receipt of notices.

Resolved: That the Department of Human Services shall amend the
32 rules regarding the home care program and the Medicaid program to
34 incorporate the following requirements regarding the
36 determination of date of receipt of notices of reduction,
38 termination or denial of benefits.

40 1. If the notice is delivered by hand, the date of receipt
42 is the date of delivery.

44 2. If the notice is mailed, the date of receipt is presumed
46 to be 3 days after the date on the notice unless there is
48 evidence to the contrary.

Rules adopted pursuant to this section are major substantive
44 rules as defined by the Maine Revised Statutes, Title 5, chapter
46 375, subchapter II-A; and be it further

Sec. 4. Rule amendment regarding appeal requests. Resolved:

48 That the Department of Human Services shall amend the rules
50 regarding Medicaid and state-funded long-term care programs

2 to require the Bureau of Elder and Adult Services to send the
3 appeal request and the required fair hearing request form to the
4 office of administrative hearings within 5 days of the receipt of
5 the appeal request by the bureau. Rules adopted pursuant to this
6 section are major substantive rules as defined by the Maine
7 Revised Statutes, Title 5, chapter 375, subchapter II-A; and be
8 it further

10 **Sec. 5. Rule amendment regarding the definition of "significant
11 change." Resolved:** That the Department of Human Services shall
12 amend the rules regarding Medicaid and state-funded long-term
13 care programs to define "significant change" according to this
14 section. "Significant change" must be defined as meaning a major
15 change that impacts one area of functional health status and that
16 requires multidisciplinary review or revision of the plan of
17 care. The occurrence of a significant change must require a
18 significant change assessment if there is a consistent pattern of
19 change with at least one area of improvement or decline. Rules
20 adopted pursuant to this section must take effect by October 1,
21 2001. Rules adopted pursuant to this section are major
22 substantive rules as defined by the Maine Revised Statutes, Title
23 5, chapter 375, subchapter II-A; and be it further

24 **Sec. 6. Rule amendment regarding the homebound requirement.
25 Resolved:** That the Department of Human Services shall amend the
26 rules regarding Medicaid and state-funded long-term care programs
27 in order to eliminate the homebound requirement. This will bring
28 Maine into compliance with actions taken by the federal
29 Department of Health and Human Services, Health Care Financing
30 Administration. Rules adopted pursuant to this section must take
31 effect by October 1, 2001. Rules adopted pursuant to this
32 section are major substantive rules as defined by the Maine
33 Revised Statutes, Title 5, chapter 375, subchapter II-A; and be
34 it further

36 **Sec. 7. Rule amendment regarding home care programs. Resolved:**
37 That the Department of Human Services shall review and amend
38 Chapter 5, Bureau of Elder and Adult Services Policy Manual in
39 order to eliminate the informal conference. Rules adopted
40 pursuant to this section must take effect February 1, 2002.
41 Rules adopted pursuant to this section are major substantive
42 rules as defined in the Maine Revised Statutes, Title 5, chapter
43 375, subchapter II-A; and be it further

44 **Sec. 8. Report to the Legislature on labor force initiatives.
45 Resolved:** That, by February 1, 2002, the Department of Human
46 Services shall report the status of efforts to create career
47 ladders and address labor shortage issues, including, but not
48 limited to, the use of appropriated funds to increase wages

2 for home care workers as set out in Public Law 1999, chapter 731,
Part BBBB, section 16, to the Joint Standing Committee on Health
and Human Services; and be it further

4
Sec. 9. Rule amendment regarding long-term care programs.

6 **Resolved:** That the Department of Human Services shall review and
amend its rules regarding Medicaid long-term care programs and
8 the state-funded long-term care programs to ensure that consumers
will receive an unscheduled reassessment if the consumer's
10 informal caregivers can no longer provide needed care. Rules
adopted pursuant to this section must take effect February 1,
12 2002. Rules adopted pursuant to this section are major
substantive rules as defined in the Maine Revised Statutes, Title
14 5, chapter 375, subchapter II-A; and be it further

16 **Sec. 10. Improving the availability of home and community-based
health and social services for elderly and disabled adults. Resolved:**

18 That the Department of Human Services shall review and amend Chapter
5, Bureau of Elder and Adult Services Policy Manual to ensure
20 that programs providing community support or home care services
for adults who would otherwise be at risk for institutional
22 placement do not contain barriers to eligibility or services as a
consumer's health or functional ability declines. Rules adopted
24 pursuant to this section must take effect February 1, 2002.
Rules adopted pursuant to this section are routine technical
26 rules as defined in the Maine Revised Statutes, Title 5, chapter
375, subchapter II-A.

28
30 **SUMMARY**

32 This resolve requires the Department of Human Services to
review and amend the rules of the Medicaid and state-funded
34 long-term care programs regarding the right to appeal, the
computation of time periods, the date of receipt of notices,
36 appeal requests, the definition of "significant change,"
significant change assessments and the homebound requirement.
38 Other issues covered by these rule changes include the informal
conference in home care programs, a report on labor force
40 initiatives, unscheduled reassessments and barriers to
eligibility and services. All rules adopted pursuant to this
42 bill will be major substantive rules, requiring legislative
review.