

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

DATE: 4-5-02

(Filing No. H-1102)

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to S.P. 722, L.D. 1924, Bill, "An Act to Support a Continuum of Quality Long-term Care Services"

Amend the amendment in Part A by striking out all of section 1 and inserting in its place the following:

Sec. A-1. 22 MRSA §1708, sub-§3, as amended by PL 1995, c. 696, Pt. A, §§32 and 33, is further amended to read:

3. Compensation for nursing homes. A nursing home, as defined under section 1812-A, or any portion of a hospital or institution operated as a nursing home, when the State is liable for payment for care, must be reimbursed at a rate established by the Department of Human Services pursuant to this subsection. The department may not establish a so-called "flat rate." This subsection applies to all funds, including federal funds, paid by any agency of the State to a nursing home for patient care. The department shall establish rules concerning reimbursement that:

A. Take into account the costs of providing care and services in conformity with applicable state and federal laws, rules, regulations and quality and safety standards;

~~A-1. --Include a specific increment to take into account the increased cost of any excise, gross receipts or similar tax that is first imposed by the State on or after January 1, 1993,~~

B. Are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities;

C. Are consistent with federal requirements relative to

limits on reimbursement under the federal Social Security Act, Title XIX; and

D. Ensure that any calculation of an occupancy percentage or other basis for adjusting the rate of reimbursement for nursing facility services to reduce the amount paid in response to a decrease in the number of residents in the facility or the percentage of the facility's occupied beds excludes all beds that the facility has removed from service for all or part of the relevant fiscal period in accordance with section 304-F. If the excluded beds are converted to residential care beds or another program for which the department provides reimbursement, nothing in this paragraph precludes the department from including those beds for purposes of any occupancy standard applicable to the residential care or other program pursuant to duly adopted rules of the department; and

E. Contain an annual inflation adjustment that:

(1) Recognizes regional variations in labor costs and the rates of increase in labor costs determined pursuant to the principles of reimbursement and establishes at least 4 regions for purposes of annual inflation adjustments; and

(2) Uses the applicable regional inflation factor as established by a national economic research organization selected by the department to adjust costs other than labor costs or fixed costs.

Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.'

Further amend the amendment in Part A by striking out all of section 3 and inserting in its place the following:

'Sec. A-3. Treatment of costs in principles of reimbursement for nursing facilities. The Department of Human Services shall amend the rules regarding principles of reimbursement for nursing facilities. The rules must:

1. Adjustment of interim payments. Upon request of a facility and a showing that there has been a dramatic market change in particular elements in the fixed cost component, adjust that facility's interim payments. This provision applies to fixed cost component elements. The rules for adjustment of interim payments for nursing facilities must apply to reimbursement rates beginning July 1, 2002; and

108

2 **2. Retention of savings.** Allow each nursing facility to
4 retain the amount, if any, by which incurred allowable per diem
6 costs classified within the routine component are less than the
8 prospective per diem payment rate for allowable routine costs for
10 the same costs reporting period as long as any retained savings
12 are used for direct care costs. The rules for retention of
14 savings must take effect for nursing facility fiscal years
16 beginning on or after October 1, 2001.

18 Rules adopted pursuant to this section are routine technical
20 rules as defined in the Maine Revised Statutes, Title 5, chapter
22 375, subchapter II-A.'

24 Further amend the amendment by striking out all of Parts B
26 and C.

28 Further amend the amendment in Part D by striking out all of
30 section 1 and inserting in its place the following:

32 '**Sec. D-1. Rules regarding penalties for occupancy declines for**
34 **nursing facilities.** The Department of Human Services shall amend the
36 rules regarding the principles of reimbursement for nursing
38 facilities regarding fixed costs to apply the existing occupancy
40 adjustment when the occupancy for nursing facilities greater than
42 60 beds falls below 85% and when the occupancy for facilities of
44 60 beds or fewer falls below 80%. The rules amended pursuant to
46 this section must apply to reimbursement rates for services
48 provided beginning January 1, 2003. Rules adopted pursuant to
this section are routine technical rules as defined in the Maine
Revised Statutes, Title 5, chapter 375, subchapter II-A.'

Further amend the amendment in Part D by striking out all of
section 2.

Further amend the amendment by striking out all of Part F
and inserting in its place the following:

PART F

'Sec. F-1. 2 MRSA §41-A is enacted to read:

§41-A. Biennial funding comparison report

By January 31, 2003, and every 2 years thereafter, the
commissioner shall report to the joint standing committee of the
Legislature having jurisdiction over health and human services
matters and the joint standing committee of the Legislature

108
2 having jurisdiction over appropriations and financial affairs the
3 amounts of appropriations and allocations that would be required
4 to fully fund all reimbursable costs for nursing facilities and
5 medical and remedial private nonmedical institutions covered by
6 the department, determined pursuant to the department's
7 principles of reimbursement and the amounts of appropriations and
8 allocations that would be necessary to raise the reimbursement
9 rates for all providers of services reimbursed under the Medicaid
10 program on a fee-for-service basis who are reimbursed below 70%
11 of usual and customary rates to a level equal to 70% of usual
12 customary rates, as long as the rate does not exceed the rate
13 allowed by federal law or regulation. The information in the
14 report regarding nursing facilities and private nonmedical
15 institutions must be presented in a manner that compares the
16 amounts that would be required to fully fund the 2 types of
17 facilities, the amounts that are requested in the Governor's
18 budget bill and the amounts that were appropriated and allocated
19 for each of the 2 years of the biennium in which the report is
20 made.

21 **Sec. F-2. Report on fiscal health of long-term care system.** By
22 January 15, 2003, the Department of Human Services, the Maine
23 Health Care Association and providers of home health and other
24 long-term care services shall work together and shall present a
25 report to the joint standing committee of the Legislature having
26 jurisdiction over health and human services matters and the joint
27 standing committee of the Legislature having jurisdiction over
28 appropriations and financial affairs regarding the fiscal health
29 of the State's long-term care system. The report must include:

30
31 1. An analysis of costs and reimbursement in long-term
32 care, including a 5-year retrospective and a projection of costs
33 and reimbursement in the future if the existing principles of
34 reimbursement and the rate setting system are utilized;

35
36 2. An analysis of the strengths and weaknesses of the
37 principles of reimbursement and other mechanisms used for setting
38 rates and reimbursement, including analysis of mechanisms used in
39 other states to ensure fair payment to providers, including
40 inflation factors and adjustments for regional variations in
41 labor costs; and

42
43 3. An analysis of reimbursement for nursing facilities,
44 including reimbursement for the direct care component, the
45 routine cost component and the fixed cost component, including
46 inflation factors and limitations on expenditures imposed by
47 category of cost or comparison with other facilities.'

48

Further amend the amendment by striking out all of Part H and inserting in its place the following:

PART H

Sec. H-1. Appropriations and allocations. The following appropriations and allocations are made.

HUMAN SERVICES, DEPARTMENT OF

Nursing Facilities 0148

Initiative: Provides funding to decrease the threshold at which the department makes occupancy adjustments to nursing facility reimbursement rates for services provided beginning January 1, 2003, to 85% for facilities with more than 60 beds and to 80% for facilities of 60 beds or fewer.

General Fund	2001-02	2002-03
All Other	\$0	\$66,142
Total	\$0	\$66,142

Federal Expenditures Fund	2001-02	2002-03
All Other	\$0	\$130,483
Total	\$0	\$130,483'

Further amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

FISCAL NOTE

The amendment significantly modifies or eliminates all but one of the provisions of the bill that have a significant fiscal impact, thereby decreasing the fiscal year 2002-03 General Fund appropriation by \$66,142. The changes to the provisions affecting the future-year costs of the bill would reduce the increase in fiscal year 2003-04 General Fund costs from \$3,612,665 to \$138,898 and would reduce the increase in fiscal year 2004-05 costs from \$3,793,299 to \$145,843.

The amendment retains the bill's provision modifying Department of Human Services rules governing the appeal of informal review decisions on nursing home and PNMI payment and cost-report audit issues. The bill requires that the department

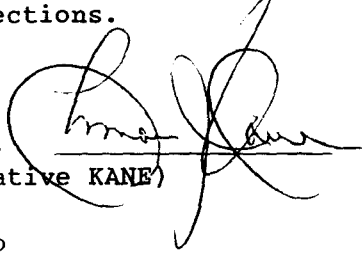
1 of 5

2 contract for independent, impartial hearing officer services and
3 absorb the cost of these services within existing resources. The
4 programmatic impact of requiring that the department absorb these
5 costs within existing resources can not be determined at this
6 time.

7 Any additional costs associated with the new reporting
8 requirements included in the amendment can be absorbed by the
9 Department of Human Services utilizing existing budgeted
10 resources.

12 **SUMMARY**

14 This amendment amends Committee Amendment "A" by removing
15 language that could have been interpreted to require
16 reimbursement for actual inflation rates and the full costs of
17 providing nursing facility and private nonmedical institution
18 (PNMI) services. The amendment rewrites the provisions regarding
19 retention of savings for nursing facilities to reflect retention
20 of savings provisions in rules proposed by the Department of
21 Human Services, requires those savings to be redirected to direct
22 care for residents and makes the provision effective January 1,
23 2003. The amendment removes the inflation adjustment and fixed
24 costs provisions as to PNMIs. The amendment removes the
25 provisions regarding budget preparation by the department and
26 presentation by the Governor. It adds a biennial report on
27 current and proposed nursing facilities and PNMIs and the amounts
28 required for full funding of allowable costs. The amendment
29 requires a report on the costs of raising all providers of
30 services reimbursed on a fee-for-service basis by the Medicaid
31 program that are below 70% of usual and customary rates to 70% of
32 usual and customary rates, as limited by federal law and
33 regulation. The amendment adds a report to the joint standing
34 committee of the Legislature having jurisdiction over health and
35 human services matters and the joint standing committee of the
36 Legislature having jurisdiction over appropriations and
37 financial affairs regarding the fiscal health of Maine's
38 long-term care system. The amendment adds appropriation and
39 allocation sections.

40
41
42 SPONSORED BY: 
43 (Representative KANE)
44
45 TOWN: Saco

48