

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1748

H.P. 1270

House of Representatives, December 22, 2003

**An Act To Amend the Rule-making Authority of the Department of
Human Services to Ensure Cost-effective Operation of State Medical
Services Programs and Compliance with Federal Requirements**

(EMERGENCY)

Submitted by the Department of Human Services pursuant to Joint Rule 204.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative O'NEIL of Saco.
Cosponsored by Senator: BRENNAN of Cumberland.

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

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6 **Whereas,** the State of Maine needs to ensure that all
legislatively mandated deappropriations are implemented to the
fullest extent possible and that all possible revenue sources are
8 used to the maximum extent possible; and

10 **Whereas,** if such actions are not taken it may be necessary
to implement new service or reimbursement reductions; and

12
14 **Whereas,** the State must comply with federal mandates in the
operation of various programs in which the Federal Government
provides matching funds, including Medicaid, TANF and food
16 stamps; and

18 **Whereas,** the State may not have an opportunity to adopt
rules complying with federal requirements until after those
20 requirements are in effect; and

22 **Whereas,** the State must conform its Medicaid rules to the
state plan filed with the Federal Government; and

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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,

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

34 **Sec. 1. Adoption of rules with retroactive application; certain**
bureaus within Department of Human Services. The Department of
Human Services, Bureau of Medical Services is authorized to adopt
36 rules that have a retroactive application when necessary to
maximize available revenue sources, to achieve maximum possible
38 implementation of legislatively authorized deappropriations and
to conform to the state plan as filed with the Federal
40 Government. The Department of Human Services, Bureau of Family
Independence is authorized to adopt rules that have a retroactive
42 application to comply with federal requirements or to conform to
the state plan as filed with the Federal Government.

44
46 Rules adopted pursuant to this section are routine technical
rules; except that, if the underlying statutory rule-making
authority for a rule or set of rules identifies that authority as
48 major substantive, then the related rule or rules adopted under
this section are major substantive.

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

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SUMMARY

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8 This bill provides the authority for 2 bureaus in the
Department of Human Services to adopt rules having retroactive
10 application. It allows the Bureau of Medical Services to do so
to maximize revenue sources and to meet deappropriations. It
12 allows the Bureau of Family Independence to do so to comply with
federal regulations or to conform to the state plan as filed with
the Federal Government.