

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1904

S.P. 748

In Senate, March 3, 2004

**Resolve, To Increase Eligibility for Consumer-directed Personal  
Care Assistance Services To Promote Independence for Maine  
Citizens**

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Labor suggested and ordered printed under Joint Rule 218.

A handwritten signature in black ink, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by President DAGGETT of Kennebec.  
Cosponsored by Representative KANE of Saco and  
Senators: BRENNAN of Cumberland, MARTIN of Aroostook, STANLEY of Penobscot,  
TREAT of Kennebec, Representatives: DUGAY of Cherryfield, GOODWIN of Pembroke,  
RICHARDSON of Brunswick, SIMPSON of Auburn.

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

4  
6           **Whereas,** persons with disabilities are in need of personal  
care assistance services to aid them in leading productive and  
contented lives; and

8  
10          **Whereas,** passage of this legislation is needed in order to  
bring assistance to disabled persons by July 1, 2004; and

12          **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  
necessary for the preservation of the public peace, health and  
safety; now, therefore, be it

18          **Sec. 1. Rulemaking. Resolved:** That by July 1, 2004 the  
Department of Labor, Bureau of Rehabilitation Services shall  
adopt rules for the consumer-directed personal care assistance  
services program under the Maine Revised Statutes, Title 26,  
section 1412-G in order to increase eligibility for those  
services.

24           **1. Substance of rules.** Rules adopted pursuant to this  
section must:

28           A. Reinforce individual autonomy and personal  
responsibility;

30           B. Provide for simplifying participation, be based on  
consumer medical and service needs and increase wages for  
direct-care workers and provide access to health benefits  
under Dirigo Health Insurance pursuant to the Maine Revised  
Statutes, Title 24-A, section 6910;

36           C. Provide for 3rd-party review of consumer evaluations and  
expanded real-time reporting on system participants;

40           D. Provide for services at the following 3 levels:

42                   (1) Up to 20 hours per week;

44                   (2) Up to 35 hours per week; and

46                   (3) Up to 50 hours per week;

48           E. Encourage the use of the consumer-directed program  
through incentives for participation, an active marketing  
campaign and promoting consideration of the program as the

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2 choice for appropriate consumers when preference for another  
3 form of service delivery is not stated;

4 F. Provide for acceptance by the Department of Labor,  
5 Bureau of Rehabilitation Services of a consumer's legal  
6 guardian, family member, or other person identified in the  
7 consumer's plan of service as a surrogate decision maker to  
8 assume responsibility for performing management tasks that  
9 the consumer is unable to perform. The surrogate may not be  
10 a personal assistant to the consumer or an employee or  
11 contractor of a provider agency. The surrogate must live in  
12 proximity to the consumer and must be readily available to  
13 perform the tasks assigned to the surrogate in the plan of  
14 service; and

16 G. Provide for bifurcated responsibility for  
17 consumer-directed personal assistance services, with  
18 independent living alternatives managed by the Department of  
19 Labor, Bureau of Rehabilitation Services and health care  
20 alternatives managed by the Department of Human Services,  
21 Bureau of Elder and Adult Services.

22 **2. Procedure.** Rules adopted pursuant to this section are  
23 routine technical rules as defined in the maine Revised Statutes,  
24 Title 5, chapter 375, subchapter 2-A.

26 **Emergency clause.** In view of the emergency cited in the  
27 preamble, this resolve takes effect when approved.

## 30 SUMMARY

32 This resolve directs the Department of Labor, Bureau of  
33 Rehabilitation Services to adopt rules by July 1, 2004 to  
34 increase eligibility for and access to the consumer-directed  
35 personal care assistance services program.