

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 400

S.P. 142

In Senate, February 5, 2009

**An Act To Implement the Recommendations of the Blue Ribbon
Commission To Study Long-term Home-based and Community-
based Care**

(EMERGENCY)

Reference to the Committee on Health and Human Services 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 CRAVEN of Androscoggin.
Cosponsored by Representative MILLETT of Waterford and
Senators: BARTLETT of Cumberland, MARRACHÉ of Kennebec, RAYE of Washington,
Representatives: CAMPBELL of Newfield, JONES of Mount Vernon, MILLER of Somerville,
Speaker PINGREE of North Haven.

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

3 **Whereas,** citizens of the State who are elderly or who are adults with physical
4 disabilities are in need of services, as evidenced by the waiting lists in November 2008
5 containing 870 persons for homemaker services and 375 persons for home-based care
6 services; and

7 **Whereas,** the Federal Government has discontinued funding for the Aging and
8 Disability Resource Centers that have been providing information to the elderly and
9 adults with disabilities and their families; and

10 **Whereas,** the agencies and programs that provide the needed services lack the
11 resources to serve the persons waiting for services and require immediate appropriations
12 of funding to meet those needs; and

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

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

18 **Sec. 1. 22 MRSA §7301, sub-§2,** as enacted by PL 1981, c. 511, §1, is amended
19 to read:

20 **2. Policy.** The Legislature declares that it is the policy of this State, with regard to in-
21 home and community support services:

22 A. To increase the availability of ~~in-home and community support services~~ long-
23 term care services that are consumer-driven, optimize individual choice and
24 autonomy and maximize physical health, mental health, functional well-being and
25 independence for adults with long-term care needs through high-quality services and
26 supports in settings that reflect the needs and choices of consumers and that are
27 delivered in the most flexible, innovative and cost-effective manner;

28 B. That the priority recipients of in-home and community support services,
29 pursuant to this subtitle, shall must be the elderly and physically disabled adults who
30 are at the greatest risk of being, or who already have been, placed inappropriately in
31 an institutional setting; ~~and~~

32 C. That a variety of agencies, facilities and individuals shall must be encouraged to
33 provide in-home and community support services and to increase the percentages of
34 adults with long-term care needs receiving in-home and community support services;

35 D. To promote and encourage public and private partnerships among a variety of
36 agencies, facilities and individuals;

37 E. To support the roles of family caregivers and a qualified workforce in the effort to
38 streamline and facilitate access to high-quality services in the least restrictive and
39 most integrated settings; and

1 F. To establish the most efficient, innovative and cost-effective system for delivering
2 a broad array of long-term care services.

3 **Sec. 2. 22 MRSA §7302, sub-§5**, as enacted by PL 1981, c. 511, §1, is amended
4 to read:

5 **5. In-home and community support services.** "In-home and community support
6 services" means health and social services and other assistance required to enable adults
7 with long-term care needs to remain in their places of residence. These services include,
8 but are not limited to, medical and diagnostic services; professional nursing; physical,
9 occupational and speech therapy; dietary and nutrition services; home health aide
10 services; personal care assistance services; companion and attendant services; handyman,
11 chore and homemaker services; respite care; hospice care; counseling services;
12 transportation; small rent subsidies; various devices ~~which~~ that lessen the effects of
13 disabilities; and other appropriate and necessary social services.

14 **Sec. 3. Planning for unified long-term care budget for services and**
15 **supports for the elderly and adults with physical disabilities.** The Department
16 of Health and Human Services shall undertake a planning process for the adoption of a
17 unified budget for long-term care services and supports for the elderly and adults with
18 physical disabilities that is complementary to the State's vision for a consumer-centered
19 approach to long-term care. The Commissioner of Health and Human Services, the
20 Commissioner of Administrative and Financial Services and the Office of Fiscal and
21 Program Review shall work together to prepare a revised chart of accounts that
22 concentrates all long-term care services and supports accounts for the elderly and adults
23 with physical disabilities in the office that provides services to the elderly and adults with
24 physical disabilities, including program and administrative costs in the office that
25 provides services to the elderly and adults with physical disabilities and excluding
26 accounts in the department's office of MaineCare services, and accounts related to mental
27 health, mental retardation and developmental disabilities. By January 1, 2010, the
28 Commissioner of Health and Human Services and the Commissioner of Administrative
29 and Financial Services shall submit a report to the joint standing committees of the
30 Legislature having jurisdiction over appropriations and financial affairs and health and
31 human services matters. The report must contain a plan for a unified budget to be
32 implemented by July 1, 2010.

33 **Sec. 4. Reduction of waiting lists.** The Department of Health and Human
34 Services shall adopt as a priority reduction of waiting lists through the provision of
35 services for home-based and community-based care and homemaker services for the
36 elderly and adults with disabilities during fiscal year 2008-09 and elimination of waiting
37 lists through the provision of services during the fiscal years 2009-10 and 2010-11.

38 **Sec. 5. Assistive technologies.** The Department of Health and Human Services
39 shall work with the Department of Labor to explore uses of and develop funding sources
40 for assistive technologies to help accomplish the State's vision of long-term services and
41 supports for the elderly and adults with physical disabilities. By January 1, 2010, the
42 Department of Health and Human Services shall report to the joint standing committee of

1 the Legislature having jurisdiction over health and human services matters on the results
2 of the work on assistive technologies.

3 **Sec. 6. Alternative funding sources.** The Department of Health and Human
4 Services shall explore alternative non-MaineCare sources of funding for service packages
5 provided to residents in the 7 tax-credit-assisted assisted living facilities that currently use
6 MaineCare funding. The alternative funding must be used in the event MaineCare
7 funding is no longer available to ensure continuation of service packages. By January 1,
8 2010 the department shall report to the joint standing committee of the Legislature having
9 jurisdiction over health and human services matters on the work on exploring alternative
10 funding sources for service packages.

11 **Sec. 7. Direct care worker training, reimbursement and benefits.** The
12 Department of Health and Human Services shall work with interested parties to develop a
13 comprehensive and systematic approach to training, reimbursement and benefits for
14 direct care workers in home-based and community-based care, residential facilities and
15 nursing facilities and by December 1, 2009 shall report to the joint standing committees
16 of the Legislature having jurisdiction over appropriations and financial affairs and health
17 and human services matters.

18 **Sec. 8. Reversal of spending trend.** The Department of Health and Human
19 Services shall undertake efforts to reverse the spending trend in long-term care to
20 increase the number of people served and funds spent in home-based and community-
21 based care as compared to the spending on residential care and nursing facility care and
22 shall report annually through 2015 on its progress by February 1st beginning in 2010 to
23 the joint standing committees of the Legislature having jurisdiction over appropriations
24 and financial affairs and health and human services matters.

25 **Sec. 9. Improved discharge planning process.** The Department of Health and
26 Human Services shall undertake an effort in the assessment process for eligibility for
27 long-term care services under the MaineCare program to improve the discharge planning
28 process as it pertains to hospitals and residential care facilities, including improving the
29 provision of information to the consumer about facility-based and home-based and
30 community-based options, improving consumer choice in the discharge process,
31 increasing consumer counseling for those choosing self-directed care and education on
32 the availability of hospice services. The department shall report to the joint standing
33 committees of the Legislature having jurisdiction over appropriations and financial affairs
34 and health and human services matters on work done with regard to this effort by
35 February 1, 2010 and February 1, 2011.

36 **Sec. 10. Aging and Disability Resource Centers.** The Department of Health
37 and Human Services shall work with the 5 area agencies on aging to provide services
38 through Aging and Disability Resource Centers on a statewide basis. The department
39 shall provide funding as appropriated in this Act. As a condition of receiving the
40 funding, the area agencies on aging shall work with hospitals, nursing facilities and
41 residential care facilities to improve the discharge planning process, including improving
42 the provision of information to the consumer about facility-based and home-based and
43 community-based options, improving consumer choice in the discharge process,

1 increasing consumer counseling for those choosing self-directed care and education on
2 the availability of hospice services. The department shall report to the joint standing
3 committees of the Legislature having jurisdiction over appropriations and financial affairs
4 and health and human services matters on work done regarding the expenditures and the
5 operations of the Aging and Disability Resource Centers by February 1, 2010 and
6 February 1, 2011.

7 **Sec. 11. Appropriations and allocations.** The following appropriations and
8 allocations are made.

9 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

10 **Long-term Care Services**

11 Initiative: Provides funding for Aging and Disability Resource Centers in the 5 area
12 agencies on aging to provide information and referral services for the elderly and adults
13 with physical disabilities and their families.

14

| | | | |
|----|---------------------------|------------------|------------------|
| 15 | GENERAL FUND | 2009-10 | 2010-11 |
| 16 | All Other | \$300,000 | \$300,000 |
| 17 | | | |
| 18 | GENERAL FUND TOTAL | <u>\$300,000</u> | <u>\$300,000</u> |

19 **Sec. 12. Appropriations and allocations.** The following appropriations and
20 allocations are made.

21 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

22 **Long-term Care Services**

23 Initiative: Provides funding for the Priority Social Services Program for reimbursement of
24 the costs of volunteers for the delivery of meals in the homes of consumers of long-term
25 care services and medical rides.

26

| | | | |
|----|---------------------------|------------------|------------------|
| 27 | GENERAL FUND | 2009-10 | 2010-11 |
| 28 | All Other | \$500,000 | \$500,000 |
| 29 | | | |
| 30 | GENERAL FUND TOTAL | <u>\$500,000</u> | <u>\$500,000</u> |

31 **Long-term Care Services**

32 Initiative: Provides funding for the family caregiver initiative that provides assistance to
33 families of the elderly and adults with physical disabilities to enable the elderly and adults
34 with disabilities to remain in their homes.

35

1 the joint standing committee of the Legislature having jurisdiction over health and human
2 services matters.

3 It directs the Department of Health and Human Services to explore alternative non-
4 MaineCare sources of funding for service packages provided to residents in the 7 tax-
5 credit-assisted assisted living facilities that currently use MaineCare funding. The
6 alternative funding must be used in the event MaineCare funding is no longer available to
7 ensure continuation of service packages. The department is required to report by January
8 1, 2010 to the joint standing committee of the Legislature having jurisdiction over health
9 and human services matters.

10 It directs the Department of Health and Human Services to work with interested
11 parties to develop a comprehensive and systematic approach to training, reimbursement
12 and benefits for direct care workers in home-based and community-based care, residential
13 facilities and nursing facilities and to report by December 1, 2009 to the joint standing
14 committees of the Legislature having jurisdiction over appropriations and financial affairs
15 and health and human services matters.

16 It directs the Department of Health and Human Services to undertake efforts to
17 reverse the spending trend in long-term care to increase the number of people served and
18 funds spent in home-based and community-based care as compared to the spending on
19 residential care and nursing facility care and to report annually by February 1 beginning
20 in 2010 to the joint standing committees of the Legislature having jurisdiction over
21 appropriations and financial affairs and health and human services matters.

22 It directs the Department of Health and Human Services to undertake an effort in the
23 assessment process for eligibility for long-term care services under the MaineCare
24 program to improve the discharge planning process as it pertains to hospitals and
25 residential care facilities, including improving the provision of information to the
26 consumer about facility-based and home-based and community-based options, improving
27 consumer choice in the discharge process, increasing consumer counseling for those
28 choosing self-directed care and education on the availability of hospice services, and to
29 report to the joint standing committees of the Legislature having jurisdiction over
30 appropriations and financial affairs and health and human services matters by February 1,
31 2010 and February 1, 2011.

32 It directs the Department of Health and Human Services to work with the 5 area
33 agencies on aging to provide services through Aging and Disability Resource Centers on
34 a statewide basis, provides \$300,000 per year for this purpose and conditions the funding
35 on the area agencies on aging working with hospitals, nursing facilities and residential
36 care facilities to improve the long-term care discharge planning process. It directs the
37 department to report to the joint standing committees of the Legislature having
38 jurisdiction over appropriations and financial affairs and health and human services
39 matters on work done with regard to this initiative by February 1, 2010 and February 1,
40 2011.

41 It provides funding for long-term care services for the elderly and adults with
42 physical disabilities in the amount of \$500,000 per year for the Priority Social Services
43 Program and \$200,000 per year for the family caregiver initiative.