

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 683

H.P. 510

House of Representatives, February 18, 2011

### An Act To Enhance Long-term Care Services for Maine Citizens

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Received by the Clerk of the House on February 17, 2011. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative PETERSON of Rumford.  
Cosponsored by Senator McCORMICK of Kennebec and  
Representatives: EVES of North Berwick, FOSSEL of Alna, O'CONNOR of Berwick,  
SANBORN of Gorham, STRANG BURGESS of Cumberland, STUCKEY of Portland.

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

2 **Sec. 1. 22 MRSA c. 1622-A** is enacted to read:

3 **CHAPTER 1622-A**

4 **CONSOLIDATION OF LONG-TERM CARE SERVICES**

5 **§7316. Consolidation of long-term care services**

6 Beginning January 1, 2012, all long-term care services provided directly or indirectly  
7 under the MaineCare program or other state-funded programs by the department under  
8 this Title must be combined into one program, referred to in this chapter as "the  
9 program," with a single set of rules, coordinated criteria for assessment and qualifications  
10 and a single budget.

11 **§7317. In-home and community support services; nursing facility services**

12 In-home and community support services and nursing facility services must be  
13 provided under the program, giving priority to expenditures that serve first those  
14 consumers with the greatest needs and the lowest service costs in accordance with the  
15 provisions of this section.

16 **1. Intake and eligibility assessment.** The department shall develop for the program  
17 a single system for intake and eligibility determination for all consumers, regardless of  
18 diagnosis, type of disability or age or other demographic factors, using the  
19 multidisciplinary teams designated by the commissioner pursuant to section 7323. The  
20 intake process, application and forms must be standardized despite differences in the  
21 criteria for eligibility for services under different provisions of the MaineCare program  
22 state plan or federally approved waiver under Medicaid or under state-funded services.

23 **2. Needs assessment.** The department shall assess a consumer for benefits  
24 determination periodically, as appropriate to the consumer, based on assessments of  
25 functional, health care and financial needs performed by an agency that is available to the  
26 consumer for case management services but that does not directly or indirectly provide  
27 in-home and community support services or nursing facility services. The assessment of  
28 the consumer's functional, health care and financial needs for in-home and community  
29 support services and nursing facility services must include a medical evaluation  
30 conducted by the consumer's primary care provider or health care specialist, as  
31 appropriate, and an evaluation by the department of the requirements for personal care  
32 assistant services and the hours of service necessary to maintain the consumer in a  
33 home-based or community-based setting.

34 **3. Benefits determination; service delivery model selection.** Once the needs  
35 assessment under subsection 2 has been completed for a consumer, the department shall  
36 determine the benefits that are available for the consumer and the consumer may choose  
37 which services to purchase. The consumer may select service delivery through the  
38 following models: the model in which the consumer directs the consumer's care and  
39 employs the persons who provide care, with or without a surrogate or unpaid

1 representative to assist the consumer; the agency model in which an agency directs the  
2 consumer's care and employs the persons who provide care; and the residential care  
3 model or nursing facility care model. If a consumer does not indicate a preference of  
4 service delivery model, the department shall assign the consumer to a self-directed model  
5 of in-home and community support services unless self-direction is determined to be  
6 inappropriate for the consumer.

7 **4. Plan of care.** The department shall develop and authorize a plan of care for each  
8 consumer determined to be eligible under this chapter or Title 34-B, chapter 5, subchapter  
9 3, article 2. The plan of care must be based on the needs assessment under subsection 2  
10 and must be designed to meet the needs of the consumer identified in the assessment,  
11 giving consideration to the consumer's living arrangement and informal supports and, to  
12 avoid duplication of services, services provided by other private and public funding  
13 sources.

14 **5. Transitional facilities and services.** The program must provide a consumer with  
15 transitional facilities and services to assist with changing functional needs and health care  
16 status.

17 **6. Nursing facility diversion.** The program must include a nursing facility diversion  
18 component to encourage the use of facilities and services consistent with the consumer's  
19 needs assessment under subsection 2 and as chosen by the consumer under subsection 3.

20 **7. Reimbursement.** The program must provide reimbursement for skilled nursing  
21 care and in-home and community support services based on a uniform rate-setting  
22 process that is consistent across types of care and services, that reduces administrative  
23 costs and that is realistic regarding access to care and services. The process must set  
24 aside a fixed percentage of the rate for wages and benefits of the direct-care workers.

25 **8. Implementation.** In implementing the program the department shall:

26 A. Establish best practices training standards in a common module-based format  
27 with standard designations for direct-care workers;

28 B. Create structures for service delivery that apply to all types of payors;

29 C. Promote the use of assistive technology;

30 D. Integrate the delivery of skilled nursing care and personal care and services;

31 E. Establish a system to designate qualified providers who must:

32 (1) Provide the full range of services in the self-directed and agency models  
33 under subsection 3;

34 (2) Have the organizational and administrative capacity to administer and  
35 monitor a complete range of in-home and community support services, including,  
36 but not limited to, serving as a resource regarding service options, coordinating  
37 and implementing consumer services, ensuring the services are delivered,  
38 providing skills training, responding to questions and problems, performing  
39 administrative services, ensuring compliance with policies and performing  
40 utilization review functions; and

