

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 1394

H.P. 1023

House of Representatives, April 4, 2011

An Act To Impose Penalties for Certain Transfers of Assets at Less Than Fair Market Value by Individuals Receiving Long-term Care Services

Reference to the Committee on Health and Human Services suggested and ordered printed.

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

HEATHER J.R. PRIEST
Clerk

Presented by Representative STRANG BURGESS of Cumberland.
Cosponsored by Senator ROSEN of Hancock and
Representatives: EVES of North Berwick, FOSSEL of Alna, MALABY of Hancock,
O'CONNOR of Berwick, PETERSON of Rumford, SANDERSON of Chelsea, SIROCKI of
Scarborough, Senator: BRANNIGAN of Cumberland.

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

2 **Sec. 1. 22 MRSA §3174-QQ** is enacted to read:

3 **§3174-QQ. Penalties for certain transfers of assets at less than fair market value by**
4 **individuals receiving long-term care services**

5 **1. Compliance with federal law and policy.** The department shall comply with the
6 applicable provisions of federal law that require state Medicaid plans filed with the
7 federal Centers for Medicare and Medicaid Services to impose an ineligibility penalty for
8 certain transfers and disposals of assets at less than fair market value by individuals and
9 spouses of individuals who are receiving long-term care services that are funded by the
10 MaineCare program. The ineligibility penalty must conform to the requirements of
11 federal law, the United States Social Security Act, 42 United States Code, Section
12 1396p(c) and any applicable implementing regulations and guidance promulgated by the
13 federal Centers for Medicare and Medicaid Services. The department shall implement
14 both the mandated and the optional provisions set forth in these federal laws and policies.

15 **2. Long-term care services subject to ineligibility penalty.** The ineligibility
16 penalty described in subsection 1 applies to individuals and their spouses who are seeking
17 to qualify for institutional and noninstitutional long-term care services that are supported
18 by state or federal MaineCare funding, including but not limited to the following types of
19 long-term care services:

20 A. Nursing facility services;

21 B. Services at any other long-term care facility that officials at the federal Centers
22 for Medicare and Medicaid Services consider equivalent to the services provided by a
23 nursing facility;

24 C. Home-based or community-based services furnished under a federal Centers for
25 Medicare and Medicaid Services-approved Medicare waiver;

26 D. Home health care services;

27 E. Home, community and personal care services; and

28 F. Any other long-term care services for which state or federal funding is provided,
29 including but not limited to services provided to:

30 (1) Persons residing in cost reimbursement residential care facilities that receive
31 payments under the department rules governing principles of reimbursement for
32 residential care facilities; or

33 (2) Persons residing in facilities that receive payments under the department
34 rules governing MaineCare benefits for private nonmedical institution services.

35 **3. Lookback period.** In its review of disposals of assets at less than fair market
36 value, the department shall apply a lookback period of 60 months for any transfers made
37 on or after February 8, 2006 and a lookback period of 36 months for any transfers made
38 prior to February 8, 2006.

