

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 517

S.P. 178

In Senate, February 9, 2017

**An Act To Amend Principles of Reimbursement for Nursing
Facilities and for Residential Care Facilities**

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
Secretary of the Senate

Presented by Senator MAKER of Washington.
Cosponsored by Representative TUELL of East Machias and
Senators: CYRWAY of Kennebec, DIAMOND of Cumberland, LANGLEY of Hancock,
ROSEN of Hancock, Representatives: HAMANN of South Portland, HICKMAN of Winthrop,
PIERCE of Falmouth, TURNER of Burlington.

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

2 **Sec. 1. 22 MRSA §1720**, as enacted by PL 2005, c. 242, §1, is amended to read:

3 **§1720. Nursing facility medical director reimbursement**

4 The department shall include in its calculation of reimbursement for services
5 provided by a nursing facility ~~an allowance for the cost of~~ incurred by the facility for a
6 medical director in a base year amount not to exceed \$10,000, with that amount being
7 subject to an annual cost-of-living adjustment.

8 **Sec. 2. 22 MRSA §7863** is enacted to read:

9 **§7863. Reimbursement for residential care facilities; room and board costs**

10 **1. New construction, acquisitions and renovations.** Notwithstanding any other
11 law to the contrary, the department shall permit a capital expenditure by a residential care
12 facility for new construction, an acquisition or a renovation that is less than \$2,000,000
13 and shall provide reimbursement to the facility for the capital expenditure without prior
14 approval. The department shall permit a residential care facility to seek and obtain
15 approval for a capital expenditure that exceeds \$2,000,000. The department shall require
16 that capital expenditures for energy efficiency improvements, for replacement equipment,
17 for information systems, for communications systems and for parking lots and garages be
18 permitted without prior approval and not be counted toward the determination of the
19 \$2,000,000 threshold.

20 **2. Extraordinary circumstance allowance.** A residential care facility that
21 experiences an unforeseen and uncontrollable event during a year that results in
22 unforeseen or uncontrollable increases in expenses may request an adjustment to a
23 prospective rate in the form of an extraordinary circumstance allowance. As used in this
24 subsection, "extraordinary circumstance" includes, but is not limited to, an event of a
25 catastrophic nature, an increase in minimum wage or social security expenses or
26 employee retirement contribution expenses in lieu of social security expenses, a change in
27 the number of licensed beds and a change in licensure or accreditation requirements. If
28 the department concludes that an extraordinary circumstance existed, the department shall
29 make an adjustment in the form of a supplemental allowance. The department shall
30 determine from the nature of the extraordinary circumstance whether the extraordinary
31 circumstance will have a continuing impact and whether the allowance should be
32 included in the computation of the base rate for the succeeding year. Reimbursement to a
33 residential care facility for additional costs arising from an extraordinary circumstance
34 must be paid via a supplemental payment that is added to the per diem reimbursement
35 rate until the department adjusts the direct care price, the routine limit and the personal
36 care services limit, as applicable, to fairly and properly reimburse a facility for these
37 costs.

38 **3. Regulatory compliance costs.** Costs incurred by a residential care facility to
39 comply with changes in federal or state laws, regulations and rules and not otherwise
40 specified in rules adopted by the department are considered reasonable and necessary
41 costs. Reimbursement for these additional regulatory costs must be paid via a

1 supplemental payment that is added to the per diem rate until the department adjusts the
2 direct care price, the routine limit and the personal care services limit, as applicable, to
3 fairly and properly reimburse facilities for these costs.

4 **4. Rulemaking.** The department shall adopt rules to implement this section. Rules
5 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
6 chapter 375, subchapter 2-A.

7

SUMMARY

8 This bill requires the Department of Health and Human Services to permit capital
9 expenditures by residential care facilities for new construction, acquisitions and
10 renovations that are less than \$2,000,000 and to provide reimbursement without prior
11 approval. It requires the department to provide an extraordinary circumstance allowance
12 in permitted reimbursement to residential care facilities. It provides that costs incurred by
13 a residential care facility to comply with federal or state laws, regulations and rules are
14 considered reasonable and necessary costs. It removes from current law on
15 reimbursement for services provided by a nursing facility the \$10,000 cap for the cost of
16 a medical director and instead requires the department to provide in its calculation of
17 reimbursement for services the cost incurred by the nursing facility for the cost of a
18 medical director.