

MAINE STATE LEGISLATURE

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Date: 6-18-18

(Filing No. H-790)

APPROPRIATIONS AND FINANCIAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 652, L.D. 924, Bill, "An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government"

Amend the bill by striking out everything after the title and inserting the following:

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

Whereas, this Act repeals Public Law 2017, chapter 284, Part V, section 2, which requires the State Controller to take action on or immediately after July 1, 2018; and

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 enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 22 MRSA §3195 is enacted to read:

§3195. Compensation for care provided to persons with intellectual disabilities or autism

1. Reimbursement. The department shall reimburse services provided to MaineCare member adults with intellectual disabilities or autism under a waiver granted by the federal Centers for Medicare and Medicaid Services for home-based and community-based care on the basis of rates and a methodology for application of the rates that reflects assessment of individual need and applies criteria for resource allocation established by the department pursuant to this section. This section applies to all funds, including federal funds, paid by any agency of the State to a provider for care covered by the waiver.

COMMITTEE AMENDMENT

R.O.P.S

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2. Rulemaking. The department shall adopt rules providing reimbursement rates under this section that:

A. Take into account the costs of providing care and services in conformity with applicable state and federal laws, rules, regulations and quality and safety standards;

B. Are sufficient to ensure that an adequate number of providers of services are available to provide access to those services for all MaineCare members who require them, including without limitation compliance with all federal standards with regard to access to covered services under the Medicaid program; and

C. Take into account competitive wage markets, state and federal requirements with regard to training and qualifications of staff, and increases in the cost of new technologies required and expected of providers since 2007.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-2. Immediate rate increases. The Department of Health and Human Services shall increase reimbursement rates in accordance with this section, effective July 1, 2018.

1. Section 21 rules. The Department of Health and Human Services shall amend its rules to increase reimbursement rates above the rates in effect on the effective date of this Part for the following procedure codes provided in Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21:

- A. T2017 home support;
- B. T2017 SC home support with medical add-on;
- C. T2017 GT home support - remote support;
- D. T2016 agency home support;
- E. T2016 agency home support over 168 hours;
- F. T2016 SC agency home support with medical add-on;
- G. S5140 shared living foster care, adult, one member;
- H. S5140 TG shared living foster care, adult, one member, increased level of support;
- I. S5140 UN shared living foster care, adult, 2 members;
- J. S5140 UN TG shared living foster care, adult, 2 members, increased level of support;
- K. T2021 community support;
- L. T2021 SC community support with medical add-on;
- M. T2015 career planning;
- N. T2019 employment specialist services;
- O. T2019 SC employment specialist services with medical add-on;
- P. H2023 work support, individual;

- 1 Q. H2023 SC work support with medical add-on;
2 R. H2023 UN work support, group, 2 members;
3 S. H2023 UP work support, group, 3 members;
4 T. H2023 UQ work support, group, 4 members;
5 U. H2023 UR work support, group, 5 members;
6 V. H2023 US work support, group, 6 members;
7 W. T2034 crisis intervention services;
8 X. T2016 U5 home support, family-centered support, one member;
9 Y. T2016 TG U5 home support, family-centered support, one member, increased
10 level of support;
11 Z. T2016 UN U5 home support, family-centered support, 2 members;
12 AA. T2016 UN TG U5 home support, family-centered support, 2 members, increased
13 level of support;
14 BB. T2016 UP U5 home support, family-centered support, 3 members;
15 CC. T2016 UP TG U5 home support, family-centered support, 3 members, increased
16 level of support;
17 DD. T2016 UQ U5 home support, family-centered support, 4 members;
18 EE. T2016 UQ TG U5 home support, family-centered support, 4 members, increased
19 level of support;
20 FF. T2016 UR U5 home support, family-centered support, 5 or more members; and
21 GG. T2016 UR TG U5 home support, family-centered support, 5 or more members,
22 increased level of support.

23 **2. Section 29 rules.** The Department of Health and Human Services shall amend its
24 rules to increase reimbursement rates above the rates in effect on the effective date of this
25 Part for the following procedure codes provided in Chapter 101: MaineCare Benefits
26 Manual, Chapter III, Section 29:

- 27 A. T2017 home support, 1/4 hour;
28 B. T2017 GT home support, remote support;
29 C. T2021 community support;
30 D. T2021 SC community support with medical add-on;
31 E. T2019 employment specialist services;
32 F. T2019 SC employment specialist services with medical add-on;
33 G. H2023 work support, individual;
34 H. H2023 SC work support - supported employment with medical add-on;
35 I. H2023 UN work support, group, 2 members;
36 J. H2023 UP work support, group, 3 members;

R.O.P.S

- 1 K. H2023 UQ work support, group, 4 members;
- 2 L. H2023 UR work support, group, 5 members;
- 3 M. H2023 US work support, group, 6 members;
- 4 N. T2015 career planning;
- 5 O. S5150 respite, 1/4 hour; and
- 6 P. S5151 respite, per diem.

7 **3. Proportional increase.** The increase in rates for the procedure codes specified in
8 subsection 1 and subsection 2 must be accomplished in equal proportion using the
9 funding provided for that purpose in this Part.

10 **4. Major substantive rules.** Rules adopted pursuant to this section are major
11 substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375,
12 subchapter 2-A.

13 **Sec. A-3. Savings efforts.** The Department of Health and Human Services and
14 representatives of organizations of providers of community support services for
15 individuals with intellectual disabilities and autism shall examine current reimbursement
16 rates, costs of providing services, labor costs and administrative overhead costs to
17 determine opportunities for efficiencies and savings. The department and providers shall
18 present a report to the joint standing committee of the Legislature having jurisdiction over
19 health and human services matters with findings no later than January 1, 2019.

20 **Sec. A-4. Appropriations and allocations.** The following appropriations and
21 allocations are made.

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

23 **Developmental Services Waiver - MaineCare Z211**

24 Initiative: Provides appropriations to increase the rates provided for home-based and
25 community-based care for individuals with intellectual disabilities or autism.

26	GENERAL FUND	2017-18	2018-19
27	All Other	\$0	\$20,100,152
28			
29	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$20,100,152</u>

30 **Developmental Services Waiver - Supports Z212**

31 Initiative: Provides appropriations to increase the rates provided for home-based and
32 community-based care for individuals with intellectual disabilities or autism.

33	GENERAL FUND	2017-18	2018-19
34	All Other	\$0	\$2,718,540
35			
36	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$2,718,540</u>

1 **Medicaid Services - Developmental Services Z210**
 2 Initiative: Provides allocations to increase the rates provided for home-based and
 3 community-based care for individuals with intellectual disabilities or autism.

4	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
5	All Other	\$0	\$4,644,239
6			
7	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$4,644,239</u>

8 **Medical Care - Payments to Providers 0147**
 9 Initiative: Provides allocations to increase the rates provided for home-based and
 10 community-based care for individuals with intellectual disabilities or autism.

11	FEDERAL EXPENDITURES FUND	2017-18	2018-19
12	All Other	\$0	\$49,941,047
13			
14	FEDERAL EXPENDITURES FUND TOTAL	<u>\$0</u>	<u>\$49,941,047</u>

15	HEALTH AND HUMAN SERVICES,		
16	DEPARTMENT OF		
17	DEPARTMENT TOTALS	2017-18	2018-19
18			
19	GENERAL FUND	\$0	\$22,818,692
20	FEDERAL EXPENDITURES FUND	\$0	\$49,941,047
21	OTHER SPECIAL REVENUE FUNDS	\$0	\$4,644,239
22			
23	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$77,403,978</u>

24 **PART B**

25 **Sec. B-1. Reimbursement for personal care and related services.** The
 26 Department of Health and Human Services shall amend its rules for reimbursement rates
 27 for personal care and related services provided under Chapter 101: MaineCare Benefits
 28 Manual, Sections 12, 19 and 96 and Chapter 5, Office of Elder Services Policy Manual,
 29 Section 63 to reflect the final rates modeled in the February 1, 2016 report "Rate Review
 30 for Personal Care and Related Services: Final Rate Models" prepared for the department
 31 by Burns & Associates, Inc. Rules adopted pursuant to this section are routine technical
 32 rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

33 **Sec. B-2. Deadline for increase established.** The Department of Health and
 34 Human Services shall increase the reimbursement rates in accordance with section 1 of
 35 this Part, effective July 1, 2018.

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Sec. B-3. Adjustment of monetary caps. The Department of Health and Human Services shall ensure that caps and limitations on home-based and community-based services are increased to reflect increases in reimbursement rates that result from this Part. A recipient of services may not experience a reduction in hours solely as a result of increased reimbursement.

Sec. B-4. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Long Term Care - Office of Aging and Disability Services 0420

Initiative: Provides funding to increase rates for certain services effective July 1, 2018.

GENERAL FUND	2017-18	2018-19
All Other	\$0	\$884,176
GENERAL FUND TOTAL	\$0	\$884,176

Medical Care - Payments to Providers 0147

Initiative: Provides funding to increase rates for certain services effective July 1, 2018.

GENERAL FUND	2017-18	2018-19
All Other	\$0	\$2,775,557
GENERAL FUND TOTAL	\$0	\$2,775,557

FEDERAL EXPENDITURES FUND	2017-18	2018-19
All Other	\$0	\$5,007,833
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$5,007,833

HEALTH AND HUMAN SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2017-18	2018-19
GENERAL FUND	\$0	\$3,659,733
FEDERAL EXPENDITURES FUND	\$0	\$5,007,833
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$8,667,566

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PART C

Sec. C-1. PL 2017, c. 284, Pt. V, §2 is repealed.

Sec. C-2. Appropriations and allocations. The following appropriations and allocations are made.

**CORRECTIONS, DEPARTMENT OF
County Jails Operation Fund Z227**

Initiative: Appropriates funds for the County Jails Operation Fund program.

GENERAL FUND	2017-18	2018-19
All Other	\$0	\$12,202,104
GENERAL FUND TOTAL	<hr/> \$0	<hr/> \$12,202,104

Reserve for County Jail Operations N266

Initiative: Deallocates funds for county jail operations.

OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
Unallocated	\$0	(\$12,202,104)
OTHER SPECIAL REVENUE FUNDS TOTAL	<hr/> \$0	<hr/> (\$12,202,104)

CORRECTIONS, DEPARTMENT OF DEPARTMENT TOTALS	2017-18	2018-19
GENERAL FUND	\$0	\$12,202,104
OTHER SPECIAL REVENUE FUNDS	\$0	(\$12,202,104)
DEPARTMENT TOTAL - ALL FUNDS	<hr/> \$0	<hr/> \$0

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

SUMMARY

This amendment replaces the bill, which was an emergency concept draft, to make various appropriations and allocations necessary for the proper operations of State Government.

Part A requires the Department of Health and Human Services to increase the reimbursement rates for services provided for home-based and community-based care for individuals with intellectual disabilities or autism and provides funding to the department

10/01/18

COMMITTEE AMENDMENT "A" to H.P. 652, L.D. 924

1 due to the change in the rates. Federal Expenditures Fund allocations are also included for
2 the federal medical assistance percentage match and Other Special Revenue Funds
3 allocations for the service provider tax.

4 Part B provides funding to the Department of Health and Human Services to increase
5 rates for certain services to be effective July 1, 2018.

6 Part C provides funding beginning in fiscal year 2018-19 for the County Jails
7 Operation Fund program. It repeals the provision of law requiring the State Controller to
8 make a one-time transfer of \$12,202,104 in fiscal year 2018-19 from the General Fund to
9 the Reserve for County Jail Operations program and makes a corresponding one-time
10 Other Special Revenue Funds deallocation.

11 **FISCAL NOTE REQUIRED**

12 **(See attached)**



128th MAINE LEGISLATURE

LD 924

LR 1297(02)

An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government

Fiscal Note for Bill as Amended by Committee Amendment *A(CH-790)*

Committee: Appropriations and Financial Affairs

Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$0	\$26,478,425	\$38,680,529	\$38,680,529
Appropriations/Allocations				
General Fund	\$0	\$38,680,529	\$38,680,529	\$38,680,529
Federal Expenditures Fund	\$0	\$54,948,880	\$54,948,880	\$54,948,880
Other Special Revenue Funds	\$0	(\$7,557,865)	\$4,644,239	\$4,644,239
Revenue				
Federal Expenditures Fund	\$0	\$54,948,880	\$54,948,880	\$54,948,880
Other Special Revenue Funds	\$0	\$4,644,239	\$4,644,239	\$4,644,239
Transfers				
General Fund	\$0	\$12,202,104	\$0	\$0
Other Special Revenue Funds	\$0	(\$12,202,104)	\$0	\$0

Fiscal Detail and Notes

Part A of the bill includes General Fund appropriations to the Department of Health and Human Services of \$22,818,692 in fiscal year 2018-19 due to a change in the rates provided for home-based and community-based care for individuals with intellectual disabilities or autism. Federal Expenditures Fund allocations are also included for the FMAP match and Other Special Revenue Funds allocations for the service provider tax.

Part B of the bill includes General Fund appropriations to the Department of Health and Human Services of \$3,659,733 beginning in fiscal year 2018-19 to increase rates for certain services to be effective July 1, 2018. Federal Expenditures Fund allocations are also included for the FMAP match.

Part C of the bill includes an ongoing appropriation of \$12,202,104 beginning in fiscal year 2018-19 for the County Jails Operation Fund program. It repeals the one-time transfer of \$12,202,104 in fiscal year 2018-19 from the General Fund to the Reserve for County Jail Operations and removes the corresponding one-time Other Special Revenue Funds allocation.