

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1612

H.P. 1110

House of Representatives, May 17, 2017

An Act To Support Maine Families through Universal Family Care

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

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GATTINE of Westbrook.
Cosponsored by Senator BELLOWS of Kennebec and
Representatives: COLLINGS of Portland, HAMANN of South Portland, MADIGAN of
Waterville, SYLVESTER of Portland, WARREN of Hallowell, Senator: CARSON of
Cumberland.

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

2 **Sec. 1. 5 MRSA §12004-G, sub-§14-I** is enacted to read:

3 **14-I.**

4 <u>Health Care</u>	<u>Universal Family</u>	<u>Expenses Only</u>	<u>22 MRSA §7288</u>
5	<u>Care Trust Fund</u>		
6	<u>Board</u>		

7 **Sec. 2. 5 MRSA §12004-I, sub-§30-B** is enacted to read:

8 **30-B.**

9 <u>Health Care</u>	<u>Universal Family</u>	<u>Not Authorized</u>	<u>22 MRSA §7289</u>
10	<u>Care Trust Fund</u>		
11	<u>Advisory Committee</u>		

12 **Sec. 3. 22 MRSA sub-T. 4, Pt. 4** is enacted to read:

13 **PART 4**

14 **FAMILY CARE SERVICES**

15 **CHAPTER 1606**

16 **UNIVERSAL FAMILY CARE**

17 **§7285. Definitions**

18 As used in this chapter, unless the context otherwise indicates, the following terms
19 have the following meanings.

20 **1. Advisory committee.** "Advisory committee" means the Universal Family Care
21 Trust Fund Advisory Committee described in section 7289.

22 **2. Board.** "Board" means the Universal Family Care Trust Fund Board described in
23 section 7288.

24 **3. Eligible person.** "Eligible person" means a person determined to be eligible
25 under the program

26 **4. Executive director.** "Executive director" means the executive director of the
27 board.

28 **5. Fund.** "Fund" means the Universal Family Care Trust Fund established under
29 section 7287.

30 **6. In-home and community support services.** "In-home and community support
31 services" means health and social services and other assistance required to enable adults

1 with long-term care needs to remain in their places of residence. These services include,
2 but are not limited to, self-directed care services; medical and diagnostic services;
3 professional nursing; physical, occupational and speech therapy; dietary and nutrition
4 services; home health aide services; personal care assistance services; companion and
5 attendant services; home repair, chore and homemaker services; respite care; hospice
6 care; counseling services; transportation; small rent subsidies; various devices that lessen
7 the effects of disabilities; and other appropriate and necessary social services.

8 **7. Universal Family Care Program.** "Universal Family Care Program" or
9 "program" means the program created under section 7286.

10 **§7286. Program established**

11 The Universal Family Care Program is established. The program provides child care
12 and in-home and community support services to individuals and families determined to
13 be eligible under this chapter. The program must have a unified system for intake and
14 eligibility determination for all consumers. Income may not be a factor for eligibility for
15 any services provided under the program. The board oversees all funding for services
16 provided pursuant to the program.

17 **§7287. Universal Family Care Trust Fund established**

18 The Universal Family Care Trust Fund is established as a nonlapsing fund managed
19 by the board to support the program. The fund may receive any revenue appropriated or
20 allocated to the fund and receives all funds deposited in the fund from any other source.
21 Funds in the fund may be invested in the same manner as permitted for investment of
22 funds held in the State Treasury.

23 **§7288. Universal Family Care Trust Fund Board**

24 The Universal Family Care Trust Fund Board, established in Title 5, section
25 12004-G, subsection 14-I, oversees and manages the fund and its use under the program
26 in accordance with this chapter.

27 **1. Membership of the board.** The board consists of the following members:

28 A. Two members who are child care providers;

29 B. Two members who represent placement agencies as defined in section 1717,
30 subsection 1, paragraph C-1;

31 C. Two members who are employees of child care providers who are providing
32 direct care services, one of whom is an employee of a child care center as defined in
33 section 8301-A and one of whom is an employee of a family child care provider as
34 defined in section 8301-A;

35 D. Two members who are employees of home care agencies who are providing
36 direct care services;

37 E. Two parents or guardians of children under 4 years of age and receiving child care
38 services at the time the parent or guardian becomes a member of the board; and

1 F. Two members receiving home care services, or family members or guardians of
2 individuals receiving home care services.

3 **2. Term; vacancy.** By February 1, 2018, the Speaker of the House of
4 Representatives shall appoint 6 members to the first board that satisfy the requirements of
5 subsection 1, paragraphs A to F, and the President of the Senate shall appoint 6 members
6 to the board that satisfy the requirements of subsection 1, paragraphs A to F, except that
7 of the members appointed under subsection 1, paragraph C, the Speaker of the House
8 shall appoint the employee of a family child care provider and the President shall appoint
9 the employee of a child care center. A member of the first board serves for a one-year
10 term or until the election of that member's successor under subsection 3. A vacancy on
11 the first board is filled in the same manner by the appointing authority for the unexpired
12 portion of the term.

13 **3. Election of board.** The department shall establish procedures to provide for
14 elections of board members after the terms of the first board expire. At least one year
15 prior to each election, the department shall provide to the board lists of all licensed child
16 care providers and licensed home care agencies including owners, directors, staff
17 members and direct care employees. The board shall determine and compile a list of the
18 names and addresses of all parents and guardians with children receiving child care
19 services and home care services through the program and provide the list to the
20 department. Based on compiled lists, the department, in consultation with the board,
21 shall identify all persons who have direct interests related to each member's required
22 qualifications under subsection 1, referred to in this subsection as "that member's
23 constituency." The department shall establish and administer a system of nomination and
24 secret ballot voting by mail under which each member is elected by vote of that member's
25 constituency.

26 **4. Terms; compensation; vacancy.** A member of the board elected under
27 subsection 3 serves a 3-year term and may serve no more than 4 terms. Members receive
28 no compensation for service but are entitled to any necessary expenses, including travel
29 expenses, incurred in the discharge of their duties. A vacancy during the term of a
30 member elected under subsection 3 may be filled by appointment by the commissioner
31 for the remainder of the member's term. A member representing those receiving child
32 care services in subsection 1, paragraph E or home care services in subsection 1,
33 paragraph F who no longer receives those services may serve out the remainder of the
34 member's term. A member of the board appointed or elected under subsection 1,
35 paragraph A, B, C or D is no longer eligible to serve if that member no longer meets the
36 requirements of the respective paragraph unless that person is moving to new
37 employment that will permit the member to meet the same requirements and the gap in
38 employment is no longer than 4 weeks.

39 **5. Board responsibilities.** The board:

40 A. Shall manage the fund to ensure the long-term sustainability of the fund;

41 B. Shall determine the amount of funding from the fund to be used for services
42 funded under the program;

1 C. Shall set reimbursement rates for services under section 7290 or 7291 eligible for
2 reimbursement under the program in a manner that maximizes access to those
3 services, supports workforce development and ensures service quality;

4 D. May by rule manage eligibility under the program to ensure the program does not
5 negatively affect the financial health of the fund;

6 E. May create advisory committees to advise the board on the program and fund;

7 F. May collect and disseminate information related to the program;

8 G. Shall report annually, no later than December 31st, to the Legislature on the status
9 of the fund, including revenues, expenditures on child care and in-home and
10 community support services, administrative costs, provider reimbursement rates and
11 any other relevant information relating to the fund;

12 H. Shall advise the Governor and the Legislature on appropriate policies related to
13 child care and in-home and community support services; and

14 I. Shall undertake any other functions necessary to implement the program and
15 enable the board to carry out its powers and duties under this chapter.

16 **6. Administrative support; executive director.** The board shall employ an
17 executive director to administer the program, to provide administrative, managerial and
18 technical support for the operations of the board and to compile annual reports. The
19 executive director must have financial and accounting expertise. The board shall
20 determine the appropriate salary of the executive director, who serves at the pleasure of
21 the board. The executive director may hire additional professional staff necessary to
22 administer the program.

23 **§7289. Universal Family Care Trust Fund Advisory Committee**

24 The Universal Family Care Trust Fund Advisory Committee is established under
25 Title 5, section 12004-I, subsection 30-B.

26 **1. Members.** The advisory committee is composed of the following, or their
27 designees:

28 A. The commissioner;

29 B. The Commissioner of Labor;

30 C. The Commissioner of Education;

31 D. The Treasurer of State;

32 E. The President of the Senate; and

33 F. The Speaker of the House of Representatives.

34 **2. Duties.** The advisory committee shall, on a quarterly basis, review the policies
35 and financial management of the fund and provide guidance and advice to the board and
36 the executive director.

1 **§7290. Child care services**

2 Notwithstanding any other provision of law, child care is available free to parents and
3 guardians under the program in accordance with rules adopted by the board.
4 Notwithstanding any other provision of law, federal child care subsidies under the
5 Temporary Assistance for Needy Families program, established in chapter 1053-B, and
6 the federal Child Care and Development Fund block grant as well as all money in the
7 fund designated by the board to support the services funded under this section must be
8 applied by the department in accordance with this section and rules adopted under this
9 section.

10 **1. Children under one year of age.** Beginning July 1, 2019, in accordance with
11 rules adopted by the board, a parent or guardian with a child or children under one year of
12 age, upon application to the department, receives vouchers from the department to pay
13 the full cost of enrollment in a child care facility or nursery school of the parent's or
14 guardian's choosing, including a facility or school licensed under chapter 1673 or 1675 or
15 an unlicensed facility or school. The department shall, upon application by a parent or
16 guardian who is not employed and has a child or children under one year of age for whom
17 that parent or guardian provides child care, pay to that parent or guardian \$125 each
18 month per child.

19 **2. Children under 2 years of age.** Beginning July 1, 2020, in accordance with rules
20 adopted by the board, a parent or guardian with a child or children under 2 years of age,
21 upon application to the department, receives vouchers from the department to pay the full
22 cost of enrollment in a child care facility or nursery school of the parent's or guardian's
23 choosing, including a facility or school licensed under chapter 1673 or 1675 or an
24 unlicensed facility or school. The department shall, upon application by a parent or
25 guardian who is not employed and has a child or children under 2 years of age for whom
26 that parent or guardian provides child care, pay to that parent or guardian \$125 each
27 month per child.

28 **3. Children under 3 years of age.** Beginning July 1, 2021, in accordance with rules
29 adopted by the board, a parent or guardian with a child or children under 3 years of age,
30 upon application to the department, receives vouchers from the department to pay the full
31 cost of enrollment in a child care facility or nursery school of the parent's or guardian's
32 choosing, including a facility or school licensed under chapter 1673 or 1675 or an
33 unlicensed facility or school. The department shall, upon application by a parent or
34 guardian who is not employed and has a child or children under 3 years of age for whom
35 that parent or guardian provides child care, pay to that parent or guardian \$125 each
36 month per child.

37 **4. Rules; local market rates.** Pursuant to section 7293, the board shall adopt rules
38 governing the provision of vouchers and payments for child care under this section. The
39 board shall determine an appropriate methodology for studying local market rates before
40 setting payment rates under this subsection. The rules must provide that, no later than
41 July 1, 2019, payment rates for child care services are at least equal to the 75th percentile
42 of local market rates for the various categories of child care services and the payment
43 rates for child care services for children with special needs must be higher than the 75th
44 percentile of local market rates.

1 **§7291. In-home and community support services**

2 Notwithstanding any other provision of law, in-home and community support
3 services are available to all eligible persons under this section in accordance with rules
4 adopted by the board. Notwithstanding any other provision of law, all available federal
5 matching funding for Medicaid services and Medicaid waiver programs and all state
6 funding for elder services provided in the home as well as all money in the fund
7 designated by the board to support the services funded under this section must be applied
8 by the department in accordance with this section and rules adopted under this section. In
9 accordance with rules adopted by the board pursuant to section 7293:

10 **1. Assessment.** Eligibility under this section must be assessed by a medical
11 professional;

12 **2. Assistance needed.** An eligible person must need assistance with at least one of
13 the activities of daily living as defined in section 7302, subsection 1-A;

14 **3. Residence.** An eligible person receiving services under this section must reside in
15 that person's own home or in another private home in the community but may not reside
16 in a hospital, nursing facility, intermediate care facility for persons with intellectual
17 disabilities, adult family care home or private nonmedical institution; and

18 **4. Extent of services.** Services provided under this section must be provided to the
19 extent they are necessary to allow the eligible person to remain living in that person's own
20 home or in another private home in the community and as long as they are necessary to
21 assist with the eligible person's activities of daily living.

22 **§7292. Outreach**

23 Beginning April 1, 2018, in accordance with rules adopted by the board, all
24 employers in the State must display in work places posters notifying employees of the
25 universal child care and in-home and community support services available under the
26 program. The Department of Labor shall produce and distribute all posters required
27 under this section.

28 **§7293. Rules**

29 The board shall adopt rules necessary to implement this chapter. Rules adopted by
30 the board pursuant to this section are routine technical rules as defined in Title 5, chapter
31 375, subchapter 2-A.

32 **Sec. 4. Program development and implementation.** The following
33 provisions govern the development and implementation of the Universal Family Care
34 Program established under the Maine Revised Statutes, Title 22, chapter 1606.

35 **1. Development of revenue source.** By December 15, 2017, the Department of
36 Administrative and Financial Services, Bureau of Revenue Services shall develop and
37 submit to the Joint Standing Committee on Health and Human Services draft legislation
38 to establish universal family care taxes to provide funding for the Universal Family Care

1 Program, established in the Maine Revised Statutes, Title 22, section 7286. The draft
2 legislation must be structured to include 3 elements:

3 A. A tax on wages that applies in a manner substantially equivalent to the federal
4 Social Security's Old-Age, Survivors, and Disability Insurance program tax, with the
5 same rates as the federal tax rates and applicable in the same manner to employees
6 and employers but that applies only to earnings above the annual contribution and
7 benefit base of the federal tax;

8 B. A self-employment tax applicable to taxpayers who are subject to the federal
9 Self-Employment Contributions Act tax that applies to net earnings in a substantially
10 equivalent manner and at the same rates as that federal tax but that applies only to net
11 earnings above the annual limit of net earnings subject to taxation under that federal
12 tax; and

13 C. A tax on unearned annual income over \$127,000, indexed to changes in the wage
14 and earning thresholds applicable under paragraphs A and B, that applies in a manner
15 similar to the federal Net Investment Income Tax imposed under 26 United States
16 Code, Section 1411 with a tax rate that is the same as that applicable to net earnings
17 subject to tax under paragraph B.

18 The Joint Standing Committee on Health and Human Services shall report out a bill to the
19 Second Regular Session of the 128th Legislature to establish universal family care taxes
20 to fund the Universal Family Care Program.

21 **2. Start-up; appointment of first board.** No later than March 1, 2018, the initial
22 Universal Family Care Trust Fund Board established under the Maine Revised Statutes,
23 Title 22, chapter 1606 shall meet to develop and oversee the implementation of the
24 Universal Family Care Program and to plan with the Department of Health and Human
25 Services for the election of new members in November 2018. By March 1, 2018, the
26 board shall also examine the need for and develop a plan for maintaining or eliminating
27 existing advisory councils relating to the child care and in-home and community support
28 services portions of the program and shall submit a report of its recommendations to the
29 Joint Standing Committee on Health and Human Services relating to the appropriate roles
30 for those councils.

31 **3. Waivers.** No later than March 31, 2018, the Department of Health and Human
32 Services shall prepare and submit applications to the United States Department of Health
33 and Human Services, Centers for Medicare and Medicaid Services to request any
34 necessary waivers to implement the Universal Family Care Program under the Maine
35 Revised Statutes, Title 22, chapter 1606.

36 **4. Development of program over time.** By July 1, 2019, in accordance with the
37 Universal Family Care Program established in the Maine Revised Statutes, Title 22,
38 chapter 1606, the Department of Health and Human Services shall fund from the
39 Universal Family Care Trust Fund established under Title 22, chapter 1606 services for
40 5,000 individuals awaiting services under the department's rule Chapter 101: MaineCare
41 Benefits Manual, Section 21. Selection of eligible individuals must be determined by
42 priority need and lottery. Each subsequent year, the department shall fund services for an

1 additional 5,000 individuals awaiting such services until there are no more individuals
2 awaiting such services.

3 **5. Workforce training center.** The Department of Health and Human Services, in
4 consultation with the Department of Labor and the Maine Community College System,
5 shall develop workforce training programs for home care and child care workers
6 providing services funded under the Universal Family Care Program established in the
7 Maine Revised Statutes, Title 22, chapter 1606. The Department of Health and Human
8 Services shall submit a plan for establishing and funding the training programs by
9 January 1, 2019 and shall by March 1, 2018 submit a report of its recommendations to the
10 Joint Standing Committee on Health and Human Services.

11 SUMMARY

12 This bill establishes the Universal Family Care Program of universal child care and
13 in-home and community support services for all individuals and families who are eligible.
14 Eligibility for universal child care is based on the age of the child, and eligibility for
15 in-home and community support services is based on medical eligibility. Income is not a
16 factor for eligibility. The bill establishes the Universal Family Care Trust Fund, which is
17 managed by a board composed of members who represent child care providers, home
18 care agencies, employees of child care providers and home care agencies and consumers
19 of child care and home care services. The board employs professional staff and receives
20 advice from an advisory committee composed of the Commissioner of Health and Human
21 Services, the Commissioner of Education and the Commissioner of Labor as well as the
22 Treasurer of State, the President of the Senate and the Speaker of the House of
23 Representatives. Base funding for universal child care is from child care funds from the
24 Temporary Assistance for Needy Families program and the federal Child Care and
25 Development Fund block grant. Base funding for universal in-home and community
26 support services is from federal matching funding related to home and community
27 support services and state funding for elder services provided in the home.

28 To complete the funding for the Universal Family Care Program, the Department of
29 Administrative and Financial Services, Bureau of Revenue Services is directed to develop
30 and submit to the Joint Standing Committee on Health and Human Services draft
31 legislation to establish universal family care taxes. The taxes are to be structured to
32 include 3 elements: a tax on wages that is substantially equivalent to the federal Social
33 Security's Old-Age, Survivors, and Disability Insurance program tax, but that applies
34 only to earnings above the annual contribution and benefit base of the federal tax; a
35 self-employment tax applicable to taxpayers who are subject to the federal
36 Self-Employment Contributions Act tax that is equivalent to that tax and applies to net
37 earnings above the annual limit subject to taxation under that federal tax; and a tax equal
38 to the wage and self-employment taxes that is imposed on unearned annual income and
39 that applies in a manner similar to the federal Net Investment Income Tax. The bill
40 directs the Joint Standing Committee on Health and Human Services to report out a bill to
41 the Second Regular Session of the 128th Legislature to establish universal family care
42 taxes to fully fund the Universal Family Care Program.