

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1753

S.P. 699

In Senate, April 20, 2023

**An Act to Establish an Independent Adjudicatory Process
Regarding the Department of Health and Human Services**

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BENNETT of Oxford.

Cosponsored by Senators: BALDACCI of Penobscot, HICKMAN of Kennebec,
TIMBERLAKE of Androscoggin, Representative: FAY of Raymond.

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

2 **Sec. 1. 5 MRSA §9062, sub-§1**, as enacted by PL 1977, c. 551, §3, is amended to
3 read:

4 **1. Presiding officer.** ~~An~~ Except for a hearing under subsection 2-A, an agency may
5 authorize any agency member, employee or agent to act as presiding officer in any hearing.

6 **Sec. 2. 5 MRSA §9062, sub-§2-A** is enacted to read:

7 **2-A. Hearings involving Department of Health and Human Services.** The
8 Attorney General shall appoint a presiding officer pursuant to this subsection for a hearing
9 involving the Department of Health and Human Services.

10 A. The Attorney General shall keep a list of persons to serve as presiding officers. The
11 list must include a statement of the qualifications of each listed person.

12 B. A presiding officer must be an attorney who has been admitted to the practice of law
13 in at least one jurisdiction or an individual with knowledge of relevant state and federal
14 health and human services law.

15 C. The Attorney General shall enter into a contract with a presiding officer to serve as
16 an impartial presiding officer at a hearing under this subchapter.

17 D. A presiding officer may not be a person who:

18 (1) Is an employee of an agency; or

19 (2) Has a personal or professional interest that would conflict with the person's
20 objectivity in the impartial due process hearing.

21 E. A presiding officer shall attend periodic training sessions concerning health and
22 human services practices and law as determined appropriate by the Attorney General.

23 F. A presiding officer may not have a client involved in a health and human services
24 matter in the State.

25 G. A presiding officer may not preside over a hearing in which there is a party:

26 (1) Whom the presiding officer has represented in any matter within the
27 immediately preceding 12-month period; or

28 (2) By whom the presiding officer has been employed during the immediately
29 preceding 3-year period.

30 A presiding officer under this subsection is not an employee of the State.

31 **SUMMARY**

32 This bill requires that, in an adjudicatory proceeding regarding the Department of
33 Health and Human Services, the Attorney General must appoint the presiding officer from
34 a list of qualified persons, who:

35 1. Must be licensed attorneys or knowledgeable in health and human services law;

36 2. Must enter into a contract with the Attorney General;

37 3. May not be an employee of a state agency or have a personal or professional conflict
38 that would prevent the person from being fair and impartial;

- 1 4. Must attend periodic training sessions in health and human services practices and
- 2 law;
- 3 5. Does not have a client involved in a health and human services matter in the State;
- 4 and
- 5 6. May not preside over a matter in which there is a party who the person represented
- 6 within the prior 12 months or who employed the person within the prior 3 years.