

MAINE STATE LEGISLATURE

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Date: 3/27/24

L.D. 2131

(Filing No. S-598)

HEALTH AND HUMAN SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

132ND LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 824, L.D. 2131, "An Act to Preserve and Improve Access to Nursing Facility Services in the State"

Amend the bill by striking out the title and substituting the following:

'Resolve, Regarding the Nursing Facility Reform Transition Fund'

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, since 2014, 29 nursing facilities have closed across the State, and these closures have been driven in large part by MaineCare reimbursement rates and a workforce crisis that threatens the stability of long-term care services; and

Whereas, Maine has the oldest population in the nation, and the demand for long-term care services continues to rise even as access to such care rapidly declines, placing vulnerable older and disabled adults at immediate risk; and

Whereas, severe workforce shortages within nursing facilities have created ongoing instability in the sector, and timely adjustments to MaineCare reimbursement rates for nursing facilities are essential to support the recruitment and retention of qualified staff necessary to ensure the safety and well-being of residents; and

Whereas, the Legislature established the Nursing Facility Reform Transition Fund to assist facilities in moving toward fully implemented MaineCare rate reforms by calendar year 2028, and all facilities should receive cost-of-living increases in their reimbursement rates during this transition; and

Whereas, unappropriated General Fund surplus amounts were transferred to the Department of Health and Human Services, Nursing Facilities program, Other Special Revenue Funds account, including by Part SSS of Public Law 2023, chapter 643, to provide the financial support necessary for facilities to implement new nursing facility rates beginning January 1, 2025; and

COMMITTEE AMENDMENT

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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

Sec. 1. Department of Health and Human Services to amend its rules to provide cost-of-living adjustments. Resolved: That, as soon as practicable, the Department of Health and Human Services shall amend its rule Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities, to remove the prohibition on adjusting the guardrails for inflation and require that the guardrails used in the 3-year transition period to the new reimbursement methodology are adjusted for inflation. The cost-of-living adjustment applied to rates for certain MaineCare services under Public Law 2025, chapter 388, Part GGG on January 1, 2026 must be applied to the guardrails and retroactively applied to January 1, 2026. The guardrails must be adjusted for any subsequently implemented cost-of-living adjustment until the end of the rate reform transition period or until guardrails are no longer applied, whichever is later.

Sec. 2. Nursing Facility Reform Transition Fund stakeholder group. Resolved: That the Department of Health and Human Services shall convene a stakeholder group to examine the use of the Nursing Facility Reform Transition Fund. The stakeholder group must include, but is not limited to, representatives from the department, representatives of a statewide organization that represents nursing facilities, operators of nursing facilities and the long-term care ombudsman described under the Maine Revised Statutes, Title 22, section 5107-A. The department shall ensure that meetings are open to the public and interested parties are provided with notice of meetings. The stakeholder group shall examine the following issues related to the Nursing Facility Reform Transition Fund established in Public Law 2023, chapter 643, Part SSS:

1. The uses for funding that has been spent from the fund;
2. The plan for the expenditure of the remaining funds in the fund;
3. The planned cycle for rebasing reimbursement rates; and
4. The use of the fund to pay for cost-of-living increases for staff pay compared to the use of other funding sources for other cost-of-living increases for direct care services.

The stakeholder group shall submit a report, no later than January 15, 2027, to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The committee is authorized to report out legislation related to the report to the 133rd Legislature in 2027.

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

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill, which is a concept draft, with a resolve. It requires the Department of Health and Human Services to amend its rule Chapter 101: MaineCare

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Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities, as soon as practicable to require that the guardrails that are used in the 3-year transition to new reimbursement rates be adjusted for inflation. The amendment also requires the Department of Health and Human Services to convene a stakeholder group to examine issues related to the Nursing Facility Reform Transition Fund. The stakeholder group must submit a report, no later than January 15, 2027, to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The committee is authorized to report out legislation related to the report. The amendment also adds an emergency preamble and emergency clause.

FISCAL NOTE REQUIRED

(See attached)



132nd MAINE LEGISLATURE

LD 2131

LR 2932(02)

An Act to Preserve and Improve Access to Nursing Facility Services in the State

Fiscal Note for Bill as Amended by Committee Amendment "A" (5598)
Committee: Health and Human Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services to adopt the changes in this bill are expected to be minor and can be absorbed within existing budgeted resources.