

MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
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by the department and appropriate money for that purpose. A municipality or other governmental unit may join with another municipality or governmental unit to carry out such a program.

§ 2098. State aid

Upon application to the department by a municipality, governmental unit, unincorporated association or nonstock corporation organized for the improvement of community health and welfare, the department may grant to such applicant money to be used for carrying out its mental retardation services.

§ 2099. Amount

Such grant of money shall not exceed in any single year $\frac{3}{4}$ of the operating expenses incurred by the applicant receiving the grant after deducting from said expense the fees, if any, received for the services rendered, except that no more than $\frac{1}{2}$ of the operating expenses shall be paid from the General Fund appropriation. Consideration shall be given to the ability of the municipality or governmental unit to support the mental retardation services, as reflected by the State's evaluation of the component communities; as to unincorporated associations or nonstock corporations, all income and resources shall be taken into account.

§ 2100. Fees

Any program authorized by the department may include the provision of services by the department or the municipality, governmental unit, unincorporated association or nonstock corporation directly to individuals, for which a fee may be charged, if the individual is financially able to pay the same. Fees received by the municipality, governmental unit, unincorporated association or nonstock corporation shall be utilized by each in carrying out its programs approved under this chapter.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Department of Mental Health and Corrections the sum of \$200,000 to carry out the purposes of this Act. The breakdown shall be as follows:

	1973-74	1974-75
MENTAL HEALTH AND CORRECTIONS,		
DEPARTMENT OF		
All Other	\$100,000	\$100,000

Effective October 3, 1973

CHAPTER 630

AN ACT to Coordinate and Effectively Utilize Resources Available to Maine's Elderly.

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

Sec. 1. R. S., T. 22, Subtitle 4, additional. Title 22 of the Revised Statutes is amended by adding a new Subtitle 4, to read as follows:

SUBTITLE 4. MAINE'S ELDERLY

PART 1

CHAPTER 1451

GENERAL PROVISIONS

§ 5101. Short title

This Act may be cited as the "1973 Act of Maine's Elderly."

§ 5102. Declaration of a people

This declaration of a people shall serve as a credo of the elderly offering a philosophy that serves as a general state of policy and basic tenets to guide the administration and implementation of this Act. The declaration of a people:

We older Americans place great emphasis on leading a life of value to our nation, states, communities, friends, families and to ourselves. America's elderly want to and are able to contribute to the good of our fellow human beings, even if such contribution lies outside the traditional realms of employment and productivity. We want to help improve the quality of life of each citizen of the United States regardless of his age. Our personal experiences, knowledge and skills are our qualifications. We are a strong, vital segment of society. We possess the power of a people.

We older Americans believe that attaining the status of senior citizen is merely beginning another stage in the life of each man and is not a signal to withdraw from life. Each person ages from birth to death. We are all aging men.

While our particular page in the history of mankind is the choice of our Creator, it is our place in history which surrounds us with the consequences of American society. Aging men have been transformed by the events of American society. America's elderly now gain sustenance and meet social needs outside our homes, and have no family under our roof. Once we were dependent on our family, now we are dependent on impersonal organizations, systems and our society as a whole. America's exiling of us as the unwanted generation is its loss — its economic, its human, its moral, its spiritual loss.

We do not want to be taken from the mainstream of life, away from the everyday activities of society, and put on the shelf. We do not want a dole, but rather help in our times of crisis. We wish to live with minimum dependence on other people and government.

To achieve this credo, we older Americans believe the United States must provide us a full and equal opportunity for meeting sustenance and social needs — the same opportunity that is enjoyed by our fellow citizens. To continue fulfilling our role in history, to continue helping our fellow human beings and to enrich our society; the elderly must be provided an opportunity to attain the basic essentials of life.

To achieve this credo, we believe older Americans must plan, establish, direct and operate our own programs and services. We also believe we must participate in the administration and operation of programs conducted by others for our benefit. Through our programs, we intend to bring benefits not just to ourselves, but to all generations in fulfillment of our personal responsibility to help improve the quality of life of all human beings.

To assist us, our families — children, brothers, sisters, nieces and nephews — must care about us. Is it too much to seek, that the people to whom we devoted ourselves, devote themselves to us?

To assist us, the government of the United States of America and each State of the Union must conduct programs which are mutually acceptable to us. The programs must be fostered by units on aging located at the highest echelons of government and charged with ultimate line authority and responsibility for any government program serving the elderly.

Government should not do all for the elderly, but rather challenge and help citizens to grasp their personal responsibilities. Government should not be the sole keeper of America's elderly, but rather a help in times of crisis. Programs must help us care for ourselves. They must encourage all people, especially our families to care about us. Programs must provide a strong advocacy of America's elderly, unencumbered by the restrictions of partisan politics and the pressures of special interests, except those interests inherent to this credo of the elderly.

Programs we operate must be distinct and clearly identified as intended to benefit older people, or be identified as the elderly's way of helping mankind. Government programs benefiting America's elderly must be distinct and visibly separate from other government services. This distinctness must be maintained in legislation, sources of funds and generally in operation of programs and services. We believe our policy provides that programs serving older people may be integrated with programs serving broader populations in those instances where gross duplication of identical programs would otherwise result. We also believe that programs with features specifically needed by older people must not be integrated with programs serving broader populations — even though the programs may be similar — except where it is conclusively demonstrated that such specific features will be retained or that greater benefits will accrue to the elderly from the integration of programs.

First, older people must receive income adequate to obtain the basic essentials of life from the market place, like our fellow Americans; rather than be given income supplement programs, such as food stamps, Old Age Assistance, subsidized housing and property tax relief. Secondly, the elderly with a time of crisis because of age, physical condition or social status must be assisted by appropriations providing services directly to them, such as homemakers, meals on wheels, home health care and nursing homes.

AMERICA MUST CONSIDER AND DECIDE HOW TO ACHIEVE PURPOSEFUL, PRIMARY GOALS TO GIVE AGING MEN THE OPPORTUNITY OF RETURNING TO A FULLER EXISTENCE OR AMERICA SHALL CONTINUE TO RELEGATE AGING MEN TO THE BACK DOOR STOOP OF HISTORY WHERE WE WILL SLIDE

INVISIBLY AND UNNOTICED INTO EXTINCTION. THE LAST CHOICE IS NOT ACCEPTABLE.

Responsibility for achieving this credo rests on the shoulders of all Americans, but especially our own. We shall attain a life of greater value if each American accepts his personal responsibility for his fellow human beings. We shall reestablish our role in society by operating services to help all generations. We shall resurrect our independence by redirecting the country's resources.

We shall express the status of our survival to all Americans. We shall carry our call to all the sources of help, to all the seats of power. We shall wield our power as a people. Through our own groups, we shall shatter the bondage of our geriatric shackles.

As older Americans, we grasp the gauntlet of this credo. We pledge ourselves to it. We shall achieve it. We accept the credo's challenge, not with the intent of personal gain, but rather remembering that, what we achieve today will benefit those who follow, for we will soon be gone.

§ 5103. Declaration of objectives

1. Objectives. It is declared that, in keeping with the traditional American concept of the inherent dignity of the individual in our society, the older people of our State are entitled to, and it is the joint and several duty of the individual, his family, relatives and friends; the community and private agencies of the community; and the governments of the political subdivisions of this State, the State of Maine and the United States of America to assist our older people to secure equal opportunity to full and free enjoyment of the following objectives:

A. An adequate income in retirement in accordance with the American standard of living;

B. The best possible physical and mental health which science can make available and without regard to economic status;

C. Suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford;

D. Full restorative services for those who require institutional care;

E. Opportunity for employment with no discriminatory personnel practices because of age;

F. Retirement in health, honor and dignity after years of contribution to the economy;

G. Pursuit of a meaningful life within the widest range of civic, cultural, and recreational opportunities;

H. Efficient community services, including access to low-cost transportation, which provide social assistance in a coordinated manner and which are readily available when needed;

I. Immediate benefit from proven research knowledge which can sustain and improve health and happiness;

J. Freedom, independence and the free exercise of individual initiative in planning and managing their own lives.

2. Purpose. It is further declared that thousands of older people in this State are suffering unnecessary harm from the lack of adequate services. It is therefore the purpose of this Act, in support of the above objectives, to:

A. Make available programs which include a full range of health, education and social services to our older citizens who need them;

B. Give full and special consideration to older citizens with special needs in planning such programs and, pending the availability of such programs for all older citizens, give priority to the elderly with the greatest economic and social need;

C. Provide programs which will assure the coordinated and effective delivery of a full range of essential services to our older citizens and, where applicable, also furnish meaningful employment opportunities for many individuals, including older persons, young persons and volunteers from the community; and

D. Insure that the planning and operation of such programs will be undertaken as a partnership of older citizens, families, community leaders, private agencies and community, state and local governments, with appropriate assistance as available from the Federal Government.

§ 5104. Definitions

For the purposes of this Act, unless the context otherwise indicates, the following words shall have the following meanings:

1. Commissioner. "Commissioner" means the Commissioner of Health and Welfare, or his successors.

2. Department. "Department" means the Maine Department of Health and Welfare.

3. Director. "Director" means the Director, Office of Maine's Elderly.

4. Nonprofit organization. "Nonprofit organization" as applied to any agency, institution or organization which is, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and which has a territory of operations that may extend to a neighborhood or community region or the State of Maine.

5. Office or state agency. "Office" or "state agency" means the Office of Maine's Elderly, Department of Health and Welfare.

6. Public. "Public" means municipal, county and other governmental bodies which are political subdivisions within the State of Maine.

CHAPTER 1453

DESIGNATION OF THE OFFICE OF MAINE'S ELDERLY

§ 5105. Office of Maine's elderly

The Services for Aging office as previously established within the Department of Health and Welfare, is hereby designated as the Office of Maine's Elderly and hereinafter in this Act referred to as the "office" which shall be headed by a director.

The office shall be directly responsible to the commissioner, or his successors, or the head of whatsoever unit of government shall succeed the department and shall be equal in administrative level and status with other major administrative units within the department. The office shall be the principal agency of state government responsible for carrying out this Act. The director shall be directly responsible to the commissioner and not to or through any other official of that department. The director shall not delegate any of his functions to any other official who is not directly responsible to him.

The director shall be appointed by the commissioner with the advice and consent of the Governor and the Executive Council.

§ 5106. Powers and duties

1. Duties. The office shall have the powers and duties to:

A. Encourage and assist development of more effective and more coordinated use of existing and new resources and services available to Maine's elderly;

B. Serve as a clearinghouse for information related to the field of aging and gather knowledge and statistics on aging, using existing sources of knowledge and data to the fullest extent possible;

C. Develop plans, conduct and encourage in cooperation with other public and private community, regional, state and national level agencies, research and demonstration programs in the field of aging;

D. Prepare, publish and disseminate educational materials dealing with, but not limited to, the income, health, housing, and community and social services of Maine's elderly;

E. Convene and conduct conferences of such authorities and officials of public and private nonprofit organizations concerned with the development and operation of programs intended to benefit older people as the director deems necessary or proper for the development and implementation of the philosophy and objectives of this Act;

F. Provide or coordinate the provision of information, technical assistance and consultation about the field of aging to public and private nonprofit organizations and provide such help in accord with the philosophy and objectives of this Act;

G. Coordinate and assist in the planning, development and establishment by public or private nonprofit organizations of programs intended to benefit older people and which are in accord with the philosophy and objectives of this Act; with a view to the establishment of a state-wide network of comprehensive, coordinated services and opportunities for older people;

H. Function as the single organizational unit of Maine State Government with primary responsibility for coordination of state programs and activities authorized by the United States Older Americans Act of 1965, as amended, and is designated as the sole agency for administering of the state plan required by that Act;

I. Function as the designated state agency to develop and administer all programs which provide services or opportunities for Maine's elderly, including programs of the Federal Government relating to older people requiring actions within the State, and including programs authorized by this Act, which are not the specific responsibility of another state agency under provisions of federal or state law;

J. Carry on a continuing evaluation of the programs and activities affecting Maine's elderly to determine the value and impact of programs operated by or administered with the assistance of the State and Federal Governments; including, but not limited to, programs relating to the income, health, housing and community and social services for older people, especially as authorized by these United States Acts and amendments to them: The Social Security Act of 1935, the Housing Act of 1937, the Older Americans Act of 1965, the Age Discrimination Act of 1967; and as authorized by several Acts and amendments to them enacted by the People of the State of Maine; with particular attention to the supplemental security income programs, medicare, medicaid, property tax refunds and the setting of standards for the licensing of nursing, intermediate care and boarding homes;

K. Prepare, adopt and administer policies, priorities, procedures, rules and regulations to govern its affairs and the development and operation of programs and activities conducted under the authority of this Act;

L. Provide for the coordination of state programs and activities in accordance with the philosophy and objectives of this Act;

M. Administer in accordance with the philosophy, objectives and authority of this Act any funds appropriated or made available to the office from any source for the benefit of Maine's elderly;

N. Assist the commissioner in all matters pertaining to Maine's elderly;

O. Develop, in cooperation with other agencies, a plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the philosophy and objectives of this Act, and conduct and provide for the conducting of such training;

P. Perform other functions necessary to the powers and duties expressly stated in this chapter.

State agencies proposing to establish programs substantially related to objectives of this Act shall consult with the office prior to the establishment of such services, and state agencies administering such programs shall cooperate fully with the office in carrying out such services.

CHAPTER 1455

MAINE COMMITTEE ON AGING

§ 5108. Committee

The Maine Committee on Aging is created, and hereinafter in this chapter is referred to as the "committee," and shall consist of 15 members who shall be appointed by the Governor with the advice and consent of the Executive Council.

§ 5109. Membership

Members of the committee shall be citizens of the State who have an unselfish and demonstrated interest in older people, a knowledge of the status of survival common to Maine's elderly, and an unwavering allegiance to the challenge of the declaration of a people made by older Americans. At least 2 members of the committee shall be current members of the Legislature, one from the House of Representatives and one from the Senate. Thirteen members shall be citizens who are current leaders of Maine's elderly from a number of fields such as income, health, housing and community and social services and who have proven experience in private, public and voluntary organizations on the state, regional and community level such as state-wide membership groups, task forces on aging, regional and county councils of older people, and municipal level senior citizens clubs.

At least 8 members shall themselves be older Americans. An official, employee, consultant or any other individual employed, retained or otherwise compensated by or representative of the executive branch of the State of Maine Government shall not be a member of the committee.

Members shall be appointed for a term of 3 years, except that of the members first appointed, 5 shall be appointed for a term of one year, 5 shall be appointed for a term of 2 years and 5 shall be appointed for a term of 3 years, as designated by the Governor at the time of appointment; and except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

Members shall be eligible for reappointment for not more than 3 consecutive terms and may serve after the expiration of their terms until their successors have been appointed, qualified and taken office. The Governor may terminate the appointment of any member of the committee for good and just cause and the reason for the termination of each appointment shall be communicated to each member so terminated. The appointment of any member of the committee shall be terminated if a member is absent from 3 consecutive meetings without good and just cause that is communicated to the chairman.

Any vacancy in the committee shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

The Governor shall designate the chairman from among the members appointed to the committee. The committee shall meet at the call of the chairman, but not less often than 4 times a year.

§ 5110. State agencies to cooperate

All agencies of State Government shall cooperate fully with the committee in carrying out this Act. The committee is authorized to request state agencies to provide such assistance as shall help the committee in furtherance of its powers and duties.

§ 5111. Administrative authority

The committee is authorized to employ, under the Personnel Law, such staff as is necessary to carry out its objectives. The committee is authorized to employ consultants and contract for such projects as it deems necessary. The commissioner and the director shall make available to the committee such staff, facilities, equipment, supply, information and other assistance as it may require to carry out its activities.

Each member of the committee shall be entitled to receive \$25 per day for compensation of the time actually spent in the performance of his duties and actual travel and other necessary expenses incurred in the performance of his duties. The committee is authorized to appoint subcommittees consisting of its own members and to allow guests of the committee to attend any and all meetings.

§ 5112. Powers and duties

1. Duties. The committee shall have the powers and duties to:

A. Advise, consult and assist the Governor on improving the quality of life of Maine's elderly;

B. Serve as an advocate of older Americans promoting and assisting activities designed to meet the problems of older people at the state and community levels, including serving as an ombudsman on behalf of individual elderly citizens and older people as a class in matters under the jurisdiction of Maine State Government;

C. Review and evaluate on a continuing basis in cooperation with the office for the purpose of determining the value and impact on the lives of older people, state and federal policies regarding Maine's elderly and programs and other activities affecting the elderly conducted or assisted by any state departments or agencies;

D. Serve as a spokesman on behalf of Maine's elderly by making recommendations in the form of proposed budgetary, legislative and policy actions to the Governor, commissioner, director, Legislature and to other officials of National and State Government with respect to state and federal policies, programs and other activities affecting or relating to the older people of Maine;

E. Inform the public in cooperation with the office, to develop a firm public understanding of the current status of the survival of Maine's elderly,

including information on effective programs elsewhere in the state or nation, by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof and by issuing publications and reports;

F. Provide public forms including the conduct of public hearings, sponsorship of conferences, workshops and other such meetings to obtain information about, discuss, publicize the needs of and solutions to problems of older people. The committee shall hold a state-wide Blaine House Conference on Aging at least every 2 years, and may hold regional conferences and meetings. The committee shall be responsible for sponsoring, in cooperation with the office and in conjunction with such other conferences it may hold, the Maine Three Quarter Century Club's annual meeting, as requested by the Governor;

G. Serve as the advisory committee on behalf of the State of Maine to the state agency as referenced and required by the federal rules and regulations governing administration of the United States Older Americans Act;

H. Serve, through a subcommittee of the committee consisting of 5 persons including the chairman and 4 other members jointly and mutually appointed by the chairman and the director with the advice and consent of the commissioner, as the review committee on behalf of the State of Maine responsible for analysis and recommendation to the Director concerning the acceptability of proposals requesting award of state administered grant funds under Title III or VII of the United States Older Americans Act, and in order to insure coordination and prevent duplication of services shall review and comment on, under its own initiative or at the request of any state or federal department or agency, any application from any agency or organization within the State to a state or federal department or agency for assistance related to meeting the needs of older persons;

I. Administer in accordance with current fiscal and accounting regulations of the State, and in accordance with the philosophy, objectives and authority of this Act, any funds appropriated for expenditure by the committee or any grants or gifts which may become available, accepted and received by the committee; and make an annual report to the Governor and Legislature not later than October 1st of each year concerning its work and interests of the previous fiscal year, and shall make such interim reports as it deems advisable.

CHAPTER 1457

COORDINATED COMMUNITY PROGRAMS

FOR MAINE'S ELDERLY

§ 5113. Purpose

It is the purpose of this chapter to encourage and assist community and regional agencies to concentrate resources in order to develop greater capacity and foster the development of coordinated community programs to

help older people by entering into new cooperative arrangements with each other and with providers of social services for planning for the provision of, and providing, social services and, where necessary, to reorganize or reassign functions, in order to secure and maintain maximum independence and dignity in a home environment for older people capable of self-care with appropriate supportive services and remove individual and social barriers to economic and personal independence for older persons.

§ 5114. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. Coordinated community program. "Coordinated community program" means a system for providing all necessary social services in a manner designed:

A. Facilitate accessibility to and utilization of all social services provided within the geographic area served by such system by any public or private agency or organization;

B. Develop and make the most efficient use of social services in meeting the needs of older persons; and

C. Use available resources efficiently and with a minimum of duplication.

2. Social services. "Social services" means any of the following services which meet such standards as the director may prescribe:

A. Health services, including health aides, home care, homemakers, home repair and chore service and community care including counseling, information and referral services, continuing education, recreation and volunteer services;

B. Transportation, where necessary to facilitate access to social services, with priority given to health services including hospitals, physician care, bona fide clinics, prescription drugs and other essential medications, meals programs and food distribution centers; and with priority given to income producing and supplement programs including social security, supplemental security and tax refunds;

C. Meals programs, which provide at least one hot meal per day and any additional meals, hot or cold, which the recipient of a grant or contract may elect to provide, each of which assures a minimum of $\frac{1}{3}$ of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Science - National Research Council, and which provides such meals programs for individuals aged 60 and over and their spouses at sites close to the individual's residence; and where appropriate to furnish transportation to such site or home-delivered meals to homebound older people; and to administer such meals programs in accordance with the appropriate and pertinent portions of the "nutrition and other program requirements" of the National Nutrition Program for the Elderly;

- D. Services designed to encourage and assist older persons to use facilities and services available to them;
- E. Services designed to assist older persons to obtain adequate housing;
- F. Services designed to assist older persons in avoiding institutionalization, including evaluation and screening and home health services; or
- G. Any other services; if such services are necessary for the general well-being of older persons.

§ 5115. Coordinated community programs

Coordinated community programs are authorized to be provided by the office through grants to each area agency with a plan approved under section 5118 for paying part of the cost, pursuant to the last 2 paragraphs of this section, of the preparation, development and administration of a plan by each area agency designated pursuant to section 5116, subsection 1, paragraph B for a coordinated community program consistent with section 5118 and the evaluation of activities carried out under such plan; and the development and provision of coordinated community programs for the delivery of social services.

From the sums appropriated for any fiscal year, each area agency shall be allotted an amount which bears the same ratio to such sum as the population aged 60 or over in such geographical boundaries of the area served by the area agency bears to the population aged 60 or over in the entire State.

The number of persons aged 60 or over in the geographical boundaries of the area served by any area agency and in the entire State shall be determined by the director on the basis of the most recent and satisfactory data available to him.

Whenever the director determines that any amount allotted to an area agency for a fiscal year under this section will not be used by such agency for carrying out the purpose for which the allotment was made, he shall make such amount available for carrying out such purpose to one or more other area agencies to the extent he determines such other area agencies will be able to use such additional amount for carrying out such purpose. Any amount made available to an area agency from an appropriation for a fiscal year pursuant to the preceding sentence shall, for purposes of this section, be regarded as part of such agency's allotment, as determined under the preceding provisions of this section for such year.

From such agency's allotment under this section for a fiscal year, such amount as the state agency determines, but not more than 15% thereof, shall be available for paying such percentage as the state agency determines, but not more than 75% of the cost of administration of area plans; and such amount as the state agency determines, but not more than 20% thereof, shall be available for paying such percentage as the state agency determines, but not more than 50%, of the cost of social services which are not provided as a part of a coordinated community program in program areas for which there is an area plan approved by the state agency.

The remainder of such allotment shall be available to the area agency only for paying such percentage as the state agency determines, but not more than 75% of the cost of social services provided in the area as a part of a coordinated community program in a service area in which there is an area plan approved by the state agency.

§ 5116. State organization

1. Organization. In order for an area of the State to be eligible to participate in the program of grants to area agencies from allotments under section 5115:

A. The State shall be divided into distinct coordinated community program areas, hereinafter in this chapter referred to as an area, after considering the geographical distribution of individuals aged 60 and older in the area, the incidence of the need for social services, including the number of older persons with low incomes residing in such areas, the distribution of resources available to provide such services and the location of units of general purpose county and municipal government within the State; and

B. The State agency shall, in accordance with regulations of the director, designate an area agency as the sole area agency to:

(1) Develop the area plan to be submitted to the director for approval under section 5118;

(2) Administer the area plan within such area;

(3) Be primarily responsible for the coordination of all area activities related to the purposes of this Act; and

(4) Review and comment on, under its own initiative or at the request of any state or federal department or agency, any application from any agency or organization within such area to such state or federal department or agency for assistance related to meeting the needs of older persons; and

(5) Develop and provide, or assure the provision of, coordinated community programs for the delivery of social services; and

C. The area agency designated pursuant to paragraph B shall:

(1) Determine which portions of its area will be included in the area plan to be developed in accordance with section 5118; and

(2) Provide assurances satisfactory to the director that the area agency will take into account, in connection with matters of general policy arising in the development and administration of the area plan for any fiscal year, the recommendations of older people in need of or served by social services provided under such plan.

§ 5117. Area organization

An area agency designated under section 5116, subsection 1, paragraph B must be an established office of aging which is operating within an area designated pursuant to section 5116, subsection 1, paragraph A, or any public or nonprofit private agency in an area which is able to operate under grants authorized by this Act and which is able to engage in the planning or provision of a broad range of social services within such an area and must provide assurance, found adequate by the state agency, that it will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program pursuant to the plan within the area. In designating an area agency, the state agency shall give preference to an established office on aging, unless the state agency finds that no such office within the area will have the capacity to carry out the area plan.

§ 5118. Area plans

1. Plans. In order to be approved by the state agency, an area plan shall be developed by the area agency designated with respect to such area under section 5116, subsection 1, paragraph B and shall:

A. Provide for the establishment of a coordinated community program for the delivery of social services within the area covered by the plan, including determining the need for social services in such area, taking into consideration, among other things, the number of older persons with low incomes residing in such area, the extent to which existing public or private programs meet such need, evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of social services in such area, for the provision of such services to meet such need;

B. In accordance with criteria established by the director by regulation relating to priorities, provide for the initiation, expansion or improvement of social services in the area covered by the area plan;

C. Provide for the establishment and maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonably convenient access to such sources. For purposes of this paragraph, an information and referral source is a location where a public or private agency or organization:

(1) Maintains current information with respect to the opportunities and services available to older persons, and develops current lists of older persons in need of services and opportunities; and

(2) Employs a specially trained staff to inform older persons of the opportunities and services which are available, and assists such persons to take advantage of such opportunities and services; and

D. Provides that the area agency will:

(1) Conduct periodic evaluations of activities carried out pursuant to the area plan;

(2) Render appropriate technical assistance to providers of social services in the planning and service area covered by the area plan;

(3) Where necessary and feasible, enter into arrangements, consistent with the area plan, under which funds under this Title may be used to provide legal services to older persons in the area carried out through federally assisted programs or other public or nonprofit agencies;

(4) Take into account, in connection with matters of general policy arising in the development and administration of the area plan, the recommendations of older people in need of or served by social services provided under such plan;

(5) Where possible, enter into arrangements with organizations providing children services so as to provide opportunities for older persons to aid or assist, on a voluntary basis, in the delivery of such services to children; and

(6) Establish an advisory council, which may be the board of directors or a subcommittee thereof, of the area agency consisting of at least 65% older people representatives of the target population and the general public, to advise the area agency on all matters relating to the administration of the plan and operations conducted thereunder.

E. Provides for the use of such methods of administration as are necessary for the proper and efficient administration of the plan;

F. Provides that the area agency will make such reports, in such form and containing such information as the director may from time to time require, and comply with such requirements as the director may impose to assure the correctness of such reports;

G. Establishes objectives consistent with the purposes of this Title, toward which activities under the plan will be directed, identifies obstacles to the attainment of those objectives and indicates how it proposes to overcome those obstacles;

H. Provides that no social service will be directly provided by the state agency or an area agency, except where, in the judgment of the state agency, provision of such service by the state agency or an area agency is necessary to assure an adequate supply of such service; and

I. Provides that preference shall be given to persons aged 60 or over for any staff positions, full-time or part-time, in area agencies for which such persons qualify;

J. The director shall approve any area plan which he finds fulfills the requirements of section 5118, subsection 1, paragraphs A to I;

K. The director shall not make a final determination disapproving any area plan, or any modification thereof, or make a final determination that an area agency is ineligible under section 5116, without first affording the area agency reasonable notice and opportunity for a hearing;

L. Whenever the director, after reasonable notice and opportunity for hearing to the area agency, finds that:

- (1) The area agency is not eligible under section 5116;
- (2) The area plan has been so changed that it no longer complies with section 5118, subsection 1, paragraphs A to I;
- (3) In the administration of the plan there is a failure to comply substantially with any such provision of section 5118, subsection 1, paragraphs A to I, the director shall notify such area agency that no further payments from its allotments under section 5115 and section 306 will be made to the agency or, in his discretion, that further payments to the agency will be limited to projects under or portions of the area plan not affected by such failure, until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such agency from its allotments under section 5115, or payments shall be limited to projects under or portions of the area plan not affected by such failure. The director shall, in accordance with regulations he shall prescribe, disburse funds so withheld directly to any public or nonprofit private organization or agency of such area, submitting an approved plan in accordance with section 5116. Any such payment or payments shall be matched in the proportions specified in section 5116;

M. An agency which is dissatisfied with a final action of the director under paragraphs J, K or L may appeal to the commissioner by filing a petition with the commissioner within 60 days after such final action. A copy of the petition shall be forthwith transmitted by the commissioner to the director. The director thereupon shall file with the commissioner the record of the proceedings on which he based his action. Upon the filing of such petition, the commissioner shall have jurisdiction to affirm the action of the director or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the director may modify or set aside his order. The findings of the director as to the facts, if supported by substantial evidence, shall be conclusive, but the commissioner, for good cause shown, may remand the case to the director to take further evidence, and the director may thereupon make new or modified findings of fact and may modify his previous action, and shall file with the commissioner the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the commissioner affirming or setting aside, in whole or in part, any action of the director shall be final.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Department of Health and Welfare, Office of Maine's Elderly, the sum of \$250,000 to carry out the purposes of this Act. The breakdown shall be as follows:

	1973-74	1974-75
HEALTH AND WELFARE, DEPARTMENT OF		
Office of Maine's Elderly		
Personal Services	(1) \$ 3,500	(1) \$ 4,000
All Other	121,100	121,000
Capital Expenditures	400	—
	<hr/> \$125,000	<hr/> \$125,000

Provides funds for staff, coordinated community programs for Maine's elderly, including \$50,000 for transportation services and funds for the work of the Committee on Aging.

Sec. 3. Transitional provisions. Notwithstanding the Revised Statutes, Title 5, section 1585, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of any agency to be reallocated to another administrative unit as a result of this Act, shall be transferred to the proper place in an account for the office, by the State Controller, upon recommendation of the department head, the State Budget Officer and upon approval by the Governor and Executive Council. A proper accounting shall be made by activity within the account. All acts or parts of acts and rules inconsistent with this Act are repealed or amended to conform hereto.

Sec. 4. Effective date. This Act shall become effective 91 days after adjournment of the Legislature.

Effective October 4, 1973

CHAPTER 631

AN ACT Relating to Protective Services for Incapacitated Adults.

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

Sec. 1. R. S., T. 18, c. 501, sub-c. III-B, additional. Chapter 501 of Title 18 of the Revised Statutes is amended by adding a new subchapter III-B to read as follows:

SUBCHAPTER III-B

GUARDIANSHIP OF INCAPACITATED ADULTS IN NEED OF PROTECTIVE SERVICES

§ 3638. Public guardian; Bureau of Social Welfare

The Bureau of Social Welfare of the Department of Health and Welfare shall act as public guardian for incapacitated adults as provided in this subchapter and whenever the term "public guardian" is used in this subchapter it shall mean and refer to the Bureau of Social Welfare.

§ 3639. Purposes and responsibility

The public guardian may be nominated and appointed as guardian of the person and estate of those adults who have been determined under this subchapter to be incapacitated and in need of guardianship. The authority of the public guardian shall be exercised by the Director of the Bureau of Social Welfare and by any persons duly delegated by said Director of the Bureau of Social Welfare to exercise such authority.