

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2002

G. Provide that in the event of widespread power outages due to weather or other emergency the time requirements for dispute resolution under sections 4, 5 and 8 of the rule do not apply; and

H. Make the heading of the subsection consistent with these changes.

4. In section 1, subsection D in the last sentence, the number of years is changed from 10 to 20, and in section 9, subsection C, paragraph 1, the number of years is changed from 10 to 20.

The Public Utilities Commission is not required to hold hearings or conduct other formal proceedings prior to finally adopting the rule in accordance with this resolve.

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

Effective March 21, 2002.

CHAPTER 84

H.P. 1497 - L.D. 2000

Resolve, Directing the Department of Human Services to Apply for a Federal Waiver to Provide Medicaid Benefits to Uninsured Residents with a Diagnosis of Cancer

Sec. 1. Waiver application for Medicaid cancer program. Resolved: That the Department of Health and Human Services, Centers for Medicare and Medicaid Services for a waiver to provide coverage limited to cancer under the Medicaid program. Coverage under a Medicaid cancer program must comply with the following terms.

1. Coverage must be available to a person who has:
 - A. A confirmed diagnosis of cancer by a qualified physician;
 - B. A gross family income at or below 250% of the federal poverty level; and
 - C. No health insurance or no insurance coverage that is adequate for the diagnosis or treatment of cancer.

Age, assets and family status may not be factors in determining eligibility.

2. The department shall adopt rules to implement the program. The rules must contain the following provisions.

- A. Coverage is limited to the enrollee and does not include family members.
- B. An enrollee must pay minimal copayments.
- C. Coverage is limited to the diagnosis and treatment costs for cancer and treatment costs for medical care required as a result of cancer treatment and must last as long as the person is receiving treatment for cancer.
- D. Coverage must include the costs for the diagnosis and treatment of cancer that were incurred within 3 months prior to the date of enrollment.
- E. For an enrollee who has health coverage, coordination of benefits, subrogation of coverage or redirection of the premium payments must occur in order to decrease costs to the State. Medicaid rules regarding estate recovery apply to Medicaid expenditures incurred under the waiver.
- F. Coverage must last as long as the enrollee is a resident of the State, is undergoing treatment and the program is operated by the State.

3. Coverage may not begin under the Medicaid cancer program until the waiver has been obtained from the Centers for Medicare and Medicaid Services and the Legislature has approved the operation of the program and appropriated funding for coverage in the biennial budget.

4. Rules adopted pursuant to this resolve are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 85

H.P. 1504 - L.D. 2007

Resolve, to Address the Crisis in Direct-care Staff in the Long-term Care System

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

Whereas, in one recent month alone, up to 299 state long-term care consumers did not receive needed home care services and hundreds more did not receive all the home care services they were scheduled to receive, due to shortages of unlicensed direct-care

staff in the long-term care system, thus endangering these consumers' health and welfare; and

Whereas, a recent study of 1/4 to 1/3 of the private duty staffing providers in the State reported that each week more than 5,000 hours of needed health care service went unmet and nearly 200 new patients were turned down or placed on waiting lists because of staffing shortages and vacancies, most of which were for unlicensed direct-care staff positions; and

Whereas, in other segments of the long-term care system, including nursing facilities and residential care facilities, the shortage of unlicensed direct-care staff is equally acute and equally dangerous to long-term care consumers; 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

Sec. 1. Rulemaking; report on legislation.

Resolved: That, by November 1, 2002, the Department of Human Services, the State Board of Nursing and the State Board of Education shall review their rules and applicable law regarding the training and certification of unlicensed direct-care staff in the long-term care system and the barriers to entering or retaining work in long-term care and shall report by December 15, 2002 to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding such legislation as may be required to:

1. Eliminate inconsistencies in training curricula, experience requirements and certification requirements for unlicensed direct-care staff whose job duties are similar in scope and level of responsibility;
2. Allow unlicensed direct-care staff who have job duties that are similar in scope and level of responsibility to transfer their credentials more easily among different long-term care settings; and
3. Create a career ladder that encourages unlicensed direct-care staff to build upon their previous training and experience to progress to higher levels of responsibility and certification without duplicating or forfeiting investments already made in their education and careers.

For purposes of this resolve, "unlicensed direct-care staff" means personal care attendants, certified nursing assistants, certified residential medication aides, residential care specialists I, home health aides and unlicensed mental health workers; and be it further

Sec. 2. Public awareness campaign. Resolved: That the Department of Human Services shall convene a meeting of interested parties, including, but not limited to, the Maine Health Care Association, the Maine Hospital Association, the Home Care Alliance of Maine, the long-term care ombudsman program and the area agencies on aging, to work together to develop resources to conduct a public awareness campaign on career opportunities in long-term care. By December 15, 2002, the Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the progress of the parties to the discussions under this section.

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

Effective March 25, 2002.

CHAPTER 86

H.P. 1626 - L.D. 2126

Resolve, Regarding Legislative Review of Chapter 1 - Requirements for Written Prescription of Schedule II Drugs, a Major Substantive Rule of the Department of Public Safety

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

Sec. 1. Adoption. Resolved: That final adoption of Chapter 1 - Requirements for Written Prescription of Schedule II Drugs, a provisionally