

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

(6) May charge fees only in connection with services under the administrative support services contract under paragraph A that have been authorized by the contract with the state or district attorney.

4. Certain checks excluded. A check described in this subsection is not considered a worthless check eligible for the pretrial diversion program for issuers of worthless checks described in subsection 2 if the check involves or is subsequently found to involve:

A. A postdated check presented in connection with a payday loan or other similar transaction when the payee of the check knew that the issuer had insufficient funds at the time the check was made, drawn or delivered;

B. A stop payment order when the issuer acted in good faith and with reasonable cause in stopping payment on the check;

C. A check dishonored because of an adjustment to the issuer's account by the financial institution holding that account without providing notice to the person at the time the check was made, drawn or delivered;

D. A check for partial payment of a debt where the payee had previously accepted partial payment for that debt;

E. A check issued by a person who was not competent or was not of legal age to enter into a legal contractual obligation at the time the check was made, drawn or delivered;

F. A check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the state or district attorney at the time the check was made, drawn or delivered; or

G. A check that is the result of theft or forgery of the check, identity theft or other fraud that is not the result of the conduct of the alleged worthless check offender.

5. Registration. Notwithstanding the exemptions in subsections 3 and 4, a private entity that operates a pretrial diversion program for issuers of worthless checks pursuant to this section shall register with the administrator on forms acceptable to the administrator and in a manner consistent with section 11031, subsection 2. Before granting a registration pursuant to this subsection, the administrator shall:

A. Review the administrative support services contract under subsection 3, paragraph A between the private entity and the state or district attorney;

B. Review all form communications to issuers of alleged worthless checks that will be used as part of the pretrial diversion program for issuers of worthless checks; and

C. Review the quality controls to be implemented by the state or district attorney and the private entity to ensure continued compliance with this section and to maintain the exemption granted in section 11003, subsection 9.

6. Enforcement. To ensure compliance with this section, the administrator may receive and act on complaints in accordance with Title 9-A, section 6-104, conduct compliance examinations pursuant to Title 9-A, section 6-106 and exercise regulatory and remedial authority pursuant to Title 9-A, Article 6.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF Administrative Services - Professional and Financial Regulation 0094

Initiative: Allocates funds for the one-time costs to establish a new registration category in the agency's licensing system.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$2,500	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$2,500	\$0

See title page for effective date.

**CHAPTER 100
H.P. 311 - L.D. 423**

An Act To Provide a Safe Sleeping Environment for Children with Disabilities To Enable Them To Remain in Their Homes

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

Sec. 1. 34-B MRSA §5605, sub-§14-D is enacted to read:

14-D. Reimbursement provided. Notwithstanding any other provision of law, the department shall provide reimbursement within available resources for durable medical equipment that provides a safe sleeping environment for individuals under 16 years of age if:

A. The durable medical equipment is necessary to correct or ameliorate a behavioral health condition;

B. The durable medical equipment is the least restrictive alternative for the treatment of the behavioral health condition;

C. The durable medical equipment is approved on a case-by-case basis by a review team composed of the same representatives as the team conducting children's behavioral treatment reviews under subsection 13, paragraph B, subparagraph (3); and

D. The department determines that the durable medical equipment is cost-effective in comparison to the provision of other covered services or equipment that can sufficiently correct or ameliorate the behavioral health condition.

The department may adopt rules as necessary to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 101

H.P. 688 - L.D. 1000

An Act To Amend the Provision Creating the Long-term Care Partnership Program

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

Whereas, compliance with Section 6021 of the federal Deficit Reduction Act of 2005 is required before the Long-term Care Partnership Program may begin operation; and

Whereas, rules for the proper operation of the Long-term Care Partnership Program within the MaineCare program have been proposed and must be finally adopted before the Long-term Care Partnership Program may begin operation; and

Whereas, affording residents of the State the opportunity to purchase long-term care insurance policies that qualify for the Long-term Care Partnership Program will encourage the private payment of long-term care costs, delay or avoid MaineCare payments for these costs and help to avoid the financial exploitation of elderly people who otherwise may be unduly influenced to transfer their property; 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 enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §3174-GG, first ¶, as enacted by PL 2005, c. 12, Pt. DDD, §10, is amended to read:

There is established within the department the Long-term Care Partnership Program pursuant to Section 6021 of the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4 (2006), referred to in this section as "the program," to provide incentives for persons to insure the costs of their own long-term care and to alleviate some of the costs of long-term care being paid by MaineCare. The department shall administer the program as a part of MaineCare, ~~contingent upon federal Medicaid participation, beginning 3 months after the federal Omnibus Budget Reconciliation Act of 1993 is amended to allow new state partnership programs.~~

Sec. 2. 22 MRSA §3174-GG, sub-§1, as enacted by PL 2005, c. 12, Pt. DDD, §10, is amended to read:

1. Eligibility. A person is eligible for the program if that person ~~has purchased~~ is insured under a policy of long-term care insurance qualified pursuant to the federal Deficit Reduction Act of 2005 and approved for the purpose of the program and then has used the policy alone or in combination with private resources to pay for long-term care costs ~~at the nursing facility level of care, without resort to MaineCare coverage, for a period of time specified by the program.~~ In order to qualify for benefits under the program, a person must be eligible under this subsection and meet the other criteria required for long-term care benefits under the MaineCare program as provided in this chapter and in rules adopted by the department.

Sec. 3. 22 MRSA §3174-GG, sub-§2, as enacted by PL 2005, c. 12, Pt. DDD, §10, is amended to read:

2. Benefits. The benefits of the program include coverage ~~for long-term care services under MaineCare for long-term care at the nursing facility level of care~~ after the person participating in the program has ~~exhausted~~ used the available coverage and benefits purchased under the approved long-term care policy.

Sec. 4. 22 MRSA §3174-GG, sub-§3, as enacted by PL 2005, c. 12, Pt. DDD, §10, is amended to read:

3. Disregard. In addition to assets disregarded or exempt under MaineCare program rules, in determining eligibility for MaineCare and the amount of MaineCare benefits and in estate recovery pursuant to section 14, subsection 2-I, the program must disregard assets of an eligible person that are disclosed to the department in the application or posteligibility process in an amount equal to the benefits paid by the ap-