

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST SPECIAL SESSION

August 26, 2019

SECOND REGULAR SESSION

January 8, 2020 to March 17, 2020

**THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 25, 2019**

**THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 16, 2020**

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

**Augusta, Maine
2020**

PUBLIC LAWS OF THE STATE OF MAINE
AS PASSED AT
THE SECOND REGULAR SESSION OF THE
ONE HUNDRED AND TWENTY-NINTH LEGISLATURE
2019

CHAPTER 533
S.P. 588 - L.D. 1758

**An Act To Clarify and Amend
MaineCare Reimbursement
Provisions for Nursing and
Residential Care Facilities**

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 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain expenditures and modifications of policy set forth in this legislation affect obligations and expenses incident to the operation of state departments and institutions during the course of the current fiscal year and require immediate attention; 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. PL 2017, c. 460, Pt. B, §3, sub-§1 is amended to read:

1. Special wage allowance for fiscal year 2018-19 and subsequent fiscal years. For the state fiscal year ending June 30, 2019, a special supplemental allowance must be made to provide for increases in wages and wage-related benefits in both the direct care cost component and routine care cost component as follows. An amount equal to 10% of allowable wages and associated benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2016 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement. This supplemental allowance must also be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in that fiscal year. The supplemental allowance for the state fiscal year ending June 30, 2019 provided pursuant to this subsection must continue in each successive fiscal year until the fiscal year in which the rebasing under the Maine Revised Statutes, Title 22, section 1708, subsection 3, paragraph F is based on

2019 as-filed cost report data and has incorporated the costs of wages and allowable benefits and taxes of a facility.

Sec. 2. PL 2017, c. 460, Pt. B, §3, sub-§§1-A and 1-B are enacted to read:

1-A. Additional special wage allowance for fiscal year 2019-20 and subsequent fiscal years. For the state fiscal year ending June 30, 2020, an additional special supplemental allowance must be made to provide for increases in contract labor, wages and allowable benefits and taxes in both the direct care component and routine care component as follows. An amount equal to 10% of allowable contract labor, wages and allowable benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2017 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement to the contrary. This additional supplemental allowance must be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in that fiscal year. The additional supplemental allowance for fiscal years ending in calendar year 2020 must be paid in each successive state fiscal year until the fiscal year in which a rebasing under the Maine Revised Statutes, Title 22, section 1708, subsection 3, paragraph F is based on 2020 as-filed cost report data and has incorporated the costs of contract labor, wages and allowable benefits and taxes of a facility. For the purposes of this subsection, "contract labor" includes nursing, house-keeping, dietary, laundry and related services.

1-B. No limitation. The increases in reimbursement rates that result from implementation of this Act are not limited to only wage and wage-related costs.

Sec. 3. PL 2017, c. 460, Pt. B, §4, sub-§1 is amended to read:

1. Special wage allowance for fiscal year 2018-19 and subsequent fiscal years. For the state fiscal year ending June 30, 2019, a special supplemental allowance must be made to provide for increases in wages and wage-related benefits in the direct care, personal care services and routine cost components as follows. An amount equal to 10% of wages and associated benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2016 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement. This supplemental allowance must also be allowed and

paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in each component that is cost settled in that fiscal year. The supplemental allowance for the state fiscal year ending in June 30, 2019 provided pursuant to this subsection must continue in each successive fiscal year until the fiscal year in which the rebased rates have incorporated the costs of wages and allowable benefits and taxes that were reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2019.

Sec. 4. PL 2017, c. 460, Pt. B, §4, sub-§§1-A and 1-B are enacted to read:

1-A. Additional special wage allowance for fiscal year 2019-20 and subsequent fiscal years. For the state fiscal year ending June 30, 2020, an additional special supplemental allowance must be made to provide for increases in contract labor, wages and allowable benefits and taxes in the direct care, personal care services and routine care cost components as follows. An amount equal to 10% of allowable contract labor, wages and allowable benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2017 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement to the contrary. The additional supplemental allowance must be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in that fiscal year. The supplemental allowance must be paid in each fiscal year after state fiscal year 2019-20 until the fiscal year in which rates have been rebased using 2020 or a later calendar year as a base year and the rebased rates have incorporated the costs of contract labor, wages and allowable benefits and taxes that were reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2020. For purposes of this subsection, "contract labor" includes nursing, house-keeping, dietary, laundry and related services.

1-B. No limitation. The increases in reimbursement rates that result from implementation of this Act are not limited to only wage and wage-related costs.

Sec. 5. Rulemaking. The Department of Health and Human Services shall amend its rule in 10-144 C.M.R. Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities and Section 97, Appendix C, Principles of Reimbursement for Medical and Remedial Service Facilities to determine, of the funds provided in section 6, the proportional amount to be distributed to each provider based on sections 1 to 4 of this Act.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF**

Medical Care - Payments to Providers 0147

Initiative: Provides one-time appropriations and allocations for residential care facility wage allowances.

GENERAL FUND	2019-20	2020-21
All Other	\$142,896	\$187,720
GENERAL FUND TOTAL	<u>\$142,896</u>	<u>\$187,720</u>
FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$251,844	\$330,844
FEDERAL EXPENDITURES FUND TOTAL	<u>\$251,844</u>	<u>\$330,844</u>

Medical Care - Payments to Providers 0147

Initiative: Provides one-time appropriations and allocations for residential care facility supplemental wage allowance.

GENERAL FUND	2019-20	2020-21
All Other	\$1,361,537	\$1,361,537
GENERAL FUND TOTAL	<u>\$1,361,537</u>	<u>\$1,361,537</u>
FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$2,399,616	\$2,399,616
FEDERAL EXPENDITURES FUND TOTAL	<u>\$2,399,616</u>	<u>\$2,399,616</u>

Nursing Facilities 0148

Initiative: Provides one-time appropriations and allocations for nursing facility wage allowances.

GENERAL FUND	2019-20	2020-21
All Other	\$377,104	\$332,280
GENERAL FUND TOTAL	<u>\$377,104</u>	<u>\$332,280</u>
FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$664,620	\$585,621
FEDERAL EXPENDITURES FUND TOTAL	<u>\$664,620</u>	<u>\$585,621</u>

Nursing Facilities 0148

Initiative: Provides one-time appropriations and allocations for nursing facility supplemental wage allowance.

GENERAL FUND	2019-20	2020-21
All Other	\$3,637,102	\$3,637,102
GENERAL FUND TOTAL	<u>\$3,637,102</u>	<u>\$3,637,102</u>
FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$6,410,140	\$6,410,140
FEDERAL EXPENDITURES FUND TOTAL	<u>\$6,410,140</u>	<u>\$6,410,140</u>

Nursing Facilities 0148

Initiative: Provides one-time deappropriations and deallocations for funding carried forward in the baseline for the nursing facility supplemental wage allowance.

GENERAL FUND	2019-20	2020-21
All Other	(\$5,400,000)	(\$5,400,000)
GENERAL FUND TOTAL	<u>(\$5,400,000)</u>	<u>(\$5,400,000)</u>

FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	(\$9,517,127)	(\$9,517,127)
FEDERAL EXPENDITURES FUND TOTAL	<u>(\$9,517,127)</u>	<u>(\$9,517,127)</u>

PNMI Room and Board Z009

Initiative: Provides one-time appropriations and allocations for residential care facility supplemental wage allowance.

GENERAL FUND	2019-20	2020-21
All Other	\$401,361	\$401,361
GENERAL FUND TOTAL	<u>\$401,361</u>	<u>\$401,361</u>

HEALTH AND HUMAN SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2019-20	2020-21
GENERAL FUND	\$520,000	\$520,000
FEDERAL EXPENDITURES FUND	\$209,093	\$209,094
DEPARTMENT TOTAL - ALL FUNDS	<u>\$729,093</u>	<u>\$729,094</u>

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

Effective January 12, 2020.

**CHAPTER 534
S.P. 18 - L.D. 54**

An Act To Limit the Influence of Lobbyists by Expanding the Prohibition on Accepting Political Contributions

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

Sec. 1. 1 MRSA §1012, sub-§10, as enacted by PL 2007, c. 642, §5, is amended to read:

10. Violation of legislative ethics. "Violation of legislative ethics" means a violation of the prohibitions in section 1014 or ~~1015~~ 1015-A.

Sec. 2. 1 MRSA §1013, sub-§2, ¶B-1, as amended by PL 2011, c. 471, §2, is further amended to read:

B-1. Any person may file a complaint against a Legislator alleging a violation of legislative ethics only as described in sections 1014 and ~~1015~~ 1015-A. The complaint must be filed in writing and signed under oath and must specify the facts of the alleged violation citing the specific provisions of sections 1014 and ~~1015~~ 1015-A that are alleged to have been violated, the approximate date of the alleged violation and such other information as the commission requires. A complainant shall agree in writing not to disclose any information about the complaint during the time the commission is determining whether or not to pursue the complaint or during the investigation of a complaint. A complaint that does not meet the criteria of this paragraph is considered incomplete and will not be forwarded to the commission.

(1) The Legislator against whom a complaint is filed must immediately be given a copy of the complaint and the name of the complainant. Before deciding whether to conduct an investigation or to hold any hearings, the commission shall afford the Legislator an opportunity to answer the complaint in writing and in person to the commission. The commission staff may gather preliminary factual information that will assist the commission in deciding whether to conduct a full investigation or to hold hearings.

(2) The commission shall consider only complaints against Legislators in office at the time of the filing of the complaint and only complaints relating to activity that occurred or was ongoing within 2 years of the complaint. Upon a majority vote of the commission, the commission shall conduct an investigation and hold hearings as it determines necessary.

(3) The commission shall issue its findings of fact together with its opinion regarding the alleged violation of legislative ethics to the legislative body of which the Legislator concerned is a member. That legislative body may take whatever action it determines appropriate, in accordance with the Constitution of Maine.

(4) If the commission determines that a Legislator has potentially violated professional standards set by a licensing board, its opinion and such other information as may be appropriate must be referred to the licensing board that oversees the Legislator's professional conduct.

Sec. 3. 1 MRSA §1015, as amended by PL 2009, c. 286, §1, is repealed.

Sec. 4. 1 MRSA §1015-A is enacted to read:
§1015-A. Campaign contributions and solicitations prohibited