

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
128<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON HEALTH AND  
HUMAN SERVICES**

August 2017

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# STATE OF MAINE

128<sup>TH</sup> LEGISLATURE  
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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 128<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

*CARRIED OVER*..... carried over to a subsequent session of the Legislature  
*CON RES XXX*..... chapter # of constitutional resolution passed by both houses  
*CONF CMTE UNABLE TO AGREE*..... Committee of Conference unable to agree; legislation died  
*DIED BETWEEN HOUSES*..... House & Senate disagreed; legislation died  
*DIED IN CONCURRENCE*..... defeated in each house, but on different motions; legislation died  
*DIED ON ADJOURNMENT*..... action incomplete when session ended; legislation died  
*EMERGENCY*..... enacted law takes effect sooner than 90 days after session adjournment  
*FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE*..... emergency failed to receive required 2/3 vote  
*FAILED, ENACTMENT or FINAL PASSAGE*..... failed to receive final majority vote  
*FAILED, MANDATE ENACTMENT*..... legislation proposing local mandate failed required 2/3 vote  
*HELD BY GOVERNOR*..... Governor has not signed; final disposition to be determined at subsequent session  
*LEAVE TO WITHDRAW*..... sponsor's request to withdraw legislation granted  
*NOT PROPERLY BEFORE THE BODY*..... ruled out of order by the presiding officer; legislation died  
*INDEF PP*..... indefinitely postponed; legislation died  
*ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X*... ought-not-to-pass report accepted; legislation died  
*P&S XXX*..... chapter # of enacted private & special law  
*PUBLIC XXX*..... chapter # of enacted public law  
*RESOLVE XXX*..... chapter # of finally passed resolve  
*VETO SUSTAINED*..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 128<sup>th</sup> Legislature is Wednesday, November 1, 2017. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

***Joint Standing Committee on Health and Human Services***

avert an emergency and provides 60 days' notice to the joint standing committee.

This bill was carried over to any special or regular session of the 128th Legislature by joint order, H.P. 1138.

**LD 1436      Resolve, To Reduce MaineCare Spending through Targeted Nutrition Interventions      **Died Between Houses****

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HAMANN S GRATWICK G	OTP-AM ONTP	

This resolve directs the Department of Health and Human Services to file an application with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services for a demonstration waiver to allow for reimbursement of medically tailored food and nutrition interventions when a health care provider determines that certain elements of nutrition or foods based upon a nutrition plan developed by a licensed dietitian are necessary for a patient's health. This resolve also directs the Department of Health and Human Services to file the application by October 1, 2017, with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to request that home-delivered meals be reimbursable under MaineCare as directed by Resolve 2015, chapter 54.

**Committee Amendment "A" (H-508)**

This amendment, which is the majority report of the committee, narrows the medically tailored and nutrition interventions demonstration waiver program to individuals who are being released from the hospital, are at risk of readmission and have received a doctor's recommendation that certain elements of nutrition or foods are necessary for the patient's health. It provides that patients offered medically tailored food and nutrition interventions may receive one meal per day for up to seven days under the program. The amendment also requires the Department of Health and Human Services to reimburse under the MaineCare program for medical nutritional therapy for certain conditions on a pilot basis. It directs the Department of Health and Human Services to report annually for five years on the medically tailored food and nutritional interventions demonstration program and the medical nutritional therapy pilot program. The amendment also adds an appropriations and allocations section.

The amendment was not adopted.

**LD 1466      An Act To Address Severe and Ongoing Shortfalls in the Funding of Direct Care Workers in Long-term Care Settings and To Establish the Commission To Study Long-term Care Workforce Issues      **CARRIED OVER****

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON T GIDEON S	OTP-AM ONTP	S-186 H-529 HYMANSON P

This bill directs the Department of Health and Human Services to increase MaineCare payment rates for certain personal care and related services, including those set forth in 10-144, Chapter 101: MaineCare Benefits Manual, Chapter III, Section 12, Allowances for Consumer-Directed Attendant Services; Chapter III, Section 19, Home and Community Benefits for Elderly and Adults with Disabilities; and Chapter III, Section 96, Private Duty Nursing and Personal Care Services; and in 10-149, Chapter 5: Office of Aging and Disability Services Policy Manual, Section 63, In-Home and Community Support Services for Elderly and Other Adults; and 14-197, Chapter 11: Consumer Directed Personal Assistance Services. For fiscal year 2017-18, these payment rates must be increased to the levels necessary to fully fund and implement the recommendations in "Rate Review for Personal Care and Related Services: Final Rate Models," the report prepared by Burns & Associates, Inc. dated February 1, 2016. For fiscal

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year 2018-19, these payment rates must be increased by an additional 10%.

The bill directs the department to increase MaineCare payment rates for certain adult family care services, adult day services and homemaker services, including those set forth in 10-144, Chapter 101: MaineCare Benefits Manual, Chapter III, Section 2, Adult Family Care Services; Chapter III, Section 26, Day Health Services; and in 10-149 Chapter 5: Office of Aging and Disability Services Policy Manual, Section 61, Adult Day Services and Section 69, Independent Support Services Program. For fiscal year 2017-18, these payment rates must be increased by 10%. For fiscal year 2018-19, these payment rates must be increased by an additional 10%.

The bill directs the department to increase MaineCare payment rates for nursing facilities set forth in 10-144, Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities. For fiscal year 2017-18, an extraordinary circumstance supplemental allowance must be made that is equal to 10% of the portion of each facility's prospective and final prospective rate that is attributable to wages and wage-related benefits in both the direct care cost component and routine care cost component. For fiscal year 2018-19, an additional extraordinary circumstance supplemental allowance of 10% must be made. In each year, this supplemental allowance must be provided as part of 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 the facility has reported increased costs for wages and wage-related benefits, notwithstanding any otherwise applicable caps or limits on reimbursement, including without limitation the amount of the supplemental allowance added to prospective payment rates.

The bill directs the department to increase MaineCare payment rates for residential care facilities set forth in 10-144, Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Appendix C, Principles of Reimbursement for Medical and Remedial Service Facilities; and 10-144, Chapter 115: Principles of Reimbursement for Residential Care Facilities - Room and Board Costs. For fiscal year 2017-18, a supplemental payment must be provided equal to 10% of the portion of the facility's per diem rate that is attributable to wages, wage-related benefits and workers' compensation. For fiscal year 2018-19, an additional supplemental payment of 10% must be provided. In each year, this supplemental payment must be added to the per diem rate until the department adjusts the direct care pricer, the routine limit and the personal care services limit, as applicable, to incorporate this 10% increase going forward. In each year, this increase must be provided as part of each facility's per diem rate notwithstanding any otherwise applicable caps or limits on reimbursement. In each year, this supplemental payment must also be allowed and paid at final audit to the full extent that the facility has reported increased costs for wages, wage-related benefits and workers' compensation, notwithstanding any otherwise applicable caps or limits on reimbursement, including without limitation the amount of the supplemental payment added to prospective payment rates.

The bill also establishes the Commission To Study Long-term Care Workforce Issues.

### **Committee Amendment "A" (S-186)**

This amendment, which is the majority report of the committee, makes the following changes to the bill.

1. Instead of the 10% increase proposed in the bill, the amendment provides that rate increases for fiscal year 2018-19 for all services in the bill must be paid according to the inflation adjustment cost-of-living percentage change to reimbursement in accordance with the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index medical care services index.
2. The amendment provides that rate increases for fiscal year 2019-20 and annually thereafter for those services must be paid using the same adjustment as fiscal year 2018-19 until a rate study has been completed by the Department of Health and Human Services, conducted by a third party and including the participation of providers, and the rates in the rate study have been implemented.
3. It changes the date of the report from the Commission To Study Long-term Care Workforce Issues from October

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15, 2017 to December 2, 2017.

4. It adds an appropriations and allocations section.

**House Amendment "A" To Committee Amendment "A" (H-514)**

This amendment amends Committee Amendment "A" to limit increases for nursing facilities so as not to exceed federally established upper payment limits.

This amendment was not adopted.

**House Amendment "B" To Committee Amendment "A" (H-529)**

This amendment incorporates the changes made by House Amendment "A" to Committee Amendment "A," removes the emergency preamble and emergency clause and changes the reporting deadline for the Commission To Study Long-term Care Workforce Issues.

This bill was reported out of committee and then carried over to the next special or regular session of the 128th Legislature on the Special Appropriations Table by joint order, S.P. 601.

**LD 1474 An Act To Reduce the Regulation of Child Care Facilities**

**CARRIED OVER**

Sponsor(s)

ESPLING E  
BRAKEY E

Committee Report

Amendments Adopted

This bill makes a number of changes to the child care system in the State.

1. It repeals Public Law 2011, chapter 380, Part UU, which set the child care subsidy payment rates of the Department of Health and Human Services at the 50th percentile of local market rates. This bill increases the payment rates to the 75th percentile of local market rates for payments the department makes on behalf of recipients of benefits under the child care subsidy program, recipients of benefits under TANF and recipients of benefits under ASPIRE-TANF.

2. It allows recipients of child care subsidies to pay the difference out of pocket between the amount of subsidy received and the amount charged by the child care provider.

3. It exempts from licensure family child care providers, nursery schools and small child care facilities that care for fewer than five children. Current law maintains this exemption for fewer than three children.

4. It establishes a five-year license and certification for child care providers that have been continuously in business without compliance violations. The cost of a five-year license or certification is 150% of the current two-year license or certification.

5. It specifies that when an inspection is prompted by a complaint the investigator may investigate only the specific complaint and not conduct an inspection that is unrelated to the complaint.

6. It removes the authority of the department to post complaints and investigation results on the department's website.

7. It establishes the Child Care Appeal Review Panel to review disputes related to the licensing and certification of child care facilities. This includes revocations, suspensions, denials, demotions to conditional status, rule compliance issues and denials of requests for alternative compliance methods. The review panel members are