

Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 1453: ELDER AND ADULT SERVICES

§5106. POWERS AND DUTIES

The department shall establish, in accordance with the purposes and intent of this Part, the overall planning, policy, objectives and priorities for all functions and activities conducted or supported in the State that relate to Maine's aging population and incapacitated and dependent adults. In order to carry out the above, the department has the power and duty to: [2011, c. 657, Pt. BB, §9 (AMD).]

1. Encourage and assist development. Encourage and assist development of more coordinated use of existing and new resources and services relating to Maine's aging population and incapacitated and dependent adults;

[1989, c. 329, §16 (AMD) .]

2. Information system. Develop and maintain an up-to-date information system related to Maine's aging population and incapacitated and dependent adults. The information must be available for use by the people of Maine, the political subdivisions, public and private nonprofit agencies and the State. Educational materials must be prepared, published and disseminated. Objective devices and research methodologies must be continuously developed. Maintaining statistical information through uniform methods that are reasonably feasible and economically efficient must be specified for use by public and private agencies, organizations and individuals. Existing sources of information must be used to the fullest extent possible, while maintaining confidentiality safeguards of state and federal law. Information may be requested and received from any state government or public or private agency. To the extent reasonable and feasible, information must maintain compatibility with federal information sharing standards.

Functions of this information system include, but are not limited to:

A. Conducting research on the causes and nature of problems relating to Maine's aging population and incapacitated and dependent adults; [1989, c. 329, §16 (AMD) .]

B. Collecting, maintaining and disseminating such knowledge, data and statistics related to Maine's aging population and incapacitated and dependent adults as will enable the department to fulfill its responsibilities; [2011, c. 657, Pt. BB, §9 (AMD) .]

C. Determining through a detailed survey the extent of problems relating to Maine's aging population and incapacitated and dependent adults and the needs and priorities for solving such problems in the state and political subdivisions; [1989, c. 329, §16 (AMD) .]

D. Maintaining an inventory of the types and quantity of facilities, programs and services operated under public or private auspices for Maine's aging population and incapacitated and dependent adults. This function must include the unduplicated count, location and characteristics of people served by each facility, program or service; and the amount, type and source of resources supporting functions related to Maine's aging population and incapacitated and dependent adults; and [2011, c. 657, Pt. BB, §9 (AMD) .]

E. (TEXT EFFECTIVE UNTIL 7/1/19) Conducting a continuous evaluation of the impact, quality and value of facilities, programs and services, including their administrative adequacy and capacity. Activities operated by or with the assistance of the State and the Federal Government must be evaluated. Activities to be included, but to which the department is not limited, are those relating to education, employment and vocational services, income, health, housing, transportation, community, social, rehabilitation, protective services and public guardianship or conservatorship for older people and incapacitated and dependent adults and programs such as the supplemental security income program, Medicare, Medicaid, property tax refunds and the setting of standards for the licensing of nursing,

intermediate care and boarding homes. Included are activities as authorized by this and so much of the several Acts and amendments to them enacted by the people of the State and those authorized by United States Acts and amendments to them such as the:

- (1) Elderly Householders Tax and Rent Refund Act of 1971;
- (2) Priority Social Services Act of 1973;
- (3) Chapter 470 of the public laws of 1969 creating the State Housing Authority;
- (4) United States Social Security Act of 1935;
- (5) United States Housing Act of 1937;
- (6) United States Older Americans Act of 1965;
- (7) United States Age Discrimination Act of 1967;
- (8) Home Based Care Act of 1981;
- (9) Congregate Housing Act of 1979;
- (10) Adult Day Care Services Act of 1983;
- (11) Adult Day Care Licensing Act of 1987;
- (12) Adult Protective Services Act of 1981;
- (13) The Uniform Probate Code, Title 18-A;
- (14) The Americans with Disabilities Act of 1990;
- (15) The Developmental Disabilities Assistance and Bill of Rights Act of 2000; and
- (16) The ADA Amendments Act of 2008; [2011, c. 657, Pt. BB, §9 (AMD).]

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- (10) Adult Day Care Services Act of 1983;
- (11) Adult Day Care Licensing Act of 1987;
- (12) Adult Protective Services Act of 1981;

- (13) The Maine Uniform Probate Code, Title 18-C;
- (14) The Americans with Disabilities Act of 1990;
- (15) The Developmental Disabilities Assistance and Bill of Rights Act of 2000; and
- (16) The ADA Amendments Act of 2008; [2017, c. 402, Pt. C, §72 (AMD); 2017, c. 402, Pt. F, §1 (AFF).]

[2011, c. 542, Pt. A, §39 (AMD); 2011, c. 657, Pt. BB, §9 (AMD); 2017, c. 402, Pt. C, §72 (AMD); 2017, c. 402, Pt. F, §1 (AFF) .]

3. Coordination of efforts. Assist the Legislative and Executive Branches of State Government, especially the Governor and the Bureau of the Budget, to coordinate all State Government efforts relating to Maine's aging population and incapacitated and dependent adults, by:

A. Submitting to each branch of State Government no later than September 1st of each year an annual report covering its activities for the immediately past fiscal year and future plans, including recommendations for changes in state and federal laws; [2011, c. 657, Pt. BB, §9 (AMD) .]

B. Reviewing all proposed legislation, fiscal activities, plans, policies and other administrative functions relating to Maine's aging population and incapacitated and dependent adults made by or requested of all state agencies. The department has the authority to submit to those bodies findings, comments and recommendations, which are advisory. Such findings and comments must recommend what modification in proposals or actions is required to make proposed legislation, fiscal activities and administrative activities consistent with such policies and priorities; and [2011, c. 657, Pt. BB, §9 (AMD) .]

C. Making recommendations to the respective branches of State Government related to improving the quality of life of Maine's aging population and incapacitated and dependent adults, and shall consult with and be consulted by all responsible state agencies regarding the policies, priorities and objectives of functions related to Maine's aging population and incapacitated and dependent adults; [2011, c. 657, Pt. BB, §9 (AMD) .]

[2011, c. 657, Pt. BB, §9 (AMD) .]

4. Comprehensive state plan. Prepare and administer a comprehensive state plan relating to Maine's aging population and incapacitated and dependent adults, developed by the department subject to the direction of the commissioner. The comprehensive state plan must be implemented for the purpose of coordinating all activities and of assuring compliance with applicable state and federal laws and regulations relating to Maine's aging population and incapacitated and dependent adults. Implementation of this duty means that the department has the authority, through a review process, to advise on the preparation and administration of any portion of any state plan relating to Maine's aging population and incapacitated and dependent adults, prepared and administered by any agency of State Government for submission to the Federal Government to obtain federal funding under federal legislation. Such state plans, or portions thereof, must include, but are not limited to, all state plans dealing with education, employment and vocational services, income, health, housing, protective services, public guardianship and conservatorship, rehabilitation, social services, transportation and welfare. The department shall advise the commissioner and Governor on preparation of and provisions to be included in such plans relating to Maine's aging population and incapacitated and dependent adults;

[2011, c. 657, Pt. BB, §9 (AMD) .]

5. Programs. Plan, establish and maintain necessary or desirable programs for individuals or groups of individuals. The department may use the full range of its powers and duties to serve Maine's aging population and incapacitated and dependent adults through indirect services provided by agreement and through direct services provided by state employees;

[2011, c. 657, Pt. BB, §9 (AMD) .]

6. Organizational unit. Function as the organizational unit of State Government with sole responsibility for conducting and coordinating, subject to the direction of the commissioner, programs authorized by this Part and so much of the several Acts, amendments and successors to them enacted by the people of the State and those authorized by the United States Acts, amendments and successors to them as relate to Maine's aging population and incapacitated and dependent adults:

A. The 1973 Act of Maine's Elderly; [1973, c. 793, §6 (NEW) .]

B. The Priority Social Service Act of 1973, including only meals for older people, transportation for older people and coordinated elderly programs; [1989, c. 329, §16 (AMD) .]

C. The United States Older Americans Act of 1965; and [1989, c. 329, §16 (AMD) .]

D. Adult Protective Services Act of 1981. [1989, c. 329, §16 (NEW) .]

The department is designated as the single agency of State Government solely responsible for administering, subject to the direction of the commissioner, any state plans as may be required by the above Acts, and for administering programs of Acts of the State or United States relating to Maine's aging population and incapacitated and dependent adults that are not the specific responsibility of another state agency under state or federal law;

[2011, c. 657, Pt. BB, §9 (AMD) .]

7. Mobilize resources. Help communities mobilize their resources to benefit Maine's aging population and incapacitated and dependent adults. The department shall provide or coordinate the provision of information, technical assistance and consultation to state, regional and local governments, and to public and private nonprofit agencies, institutions, organizations and individuals. The help is for the purpose of encouraging, developing and assisting with the initiation, establishment and administration of any plans, programs or services with a view to the establishment of a statewide network of comprehensive, coordinated services and opportunities for Maine's aging population and incapacitated and dependent adults. Included in this duty is authority to coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in Maine's aging population and incapacitated and dependent adults;

[2011, c. 657, Pt. BB, §9 (AMD) .]

8. Funds. Seek and receive funds from the Federal Government and private sources to further its activities. Included in this function is authority to solicit, accept, administer, disburse and coordinate for the State in accordance with the intent, objectives and purposes of this Part; and within any limitation that may apply from the sources of such funds, the efforts to obtain and the use of any funds from any source to benefit Maine's aging population and incapacitated and dependent adults. Any gift of money or property made by will or otherwise, and any grant or other funds appropriated, services or property available from the Federal Government, the State or any political subdivision thereof and from all other sources, public or private, may be accepted and administered. The department may do all things necessary to cooperate with the Federal Government or any of its agencies in making application for any funds. Included in this duty is authority to advise regarding the disbursement of all state funds, or funds administered through agencies of State Government, appropriated or made available to benefit Maine's aging population and incapacitated and dependent adults;

[2011, c. 657, Pt. BB, §9 (AMD) .]

9. Agreements. Enter into agreements necessary or incidental to the performance of its duties. Included is the power to make agreements with qualified community, regional and state level, private nonprofit and public agencies, organizations and individuals in this and other states to develop or provide facilities, programs and services for Maine's aging population and incapacitated and dependent adults. Agreements with such agencies, organizations and individuals may be executed only with agencies reviewed by the area agency pursuant to section 5116, subsection 1, paragraph B. The department may engage expert advisors and assistants, who may serve without compensation or may be compensated to the extent funds may be available by appropriation, grant or allocation from a state department. The department may pay for such expert advisors or assistants;

[2011, c. 657, Pt. BB, §9 (AMD) .]

10. Rules. Prepare, adopt, amend, rescind and administer, subject to the direction of the commissioner, policies, priorities, procedures and rules to govern its affairs and the development and operation of facilities, programs and services. The department may adopt rules to carry out the powers and duties pursuant to this Part and in accordance with the purpose and objectives of this Part. It shall especially adopt such rules as may be necessary to define contractual terms, conditions of agreements and all other rules as are necessary for the proper administration of this Part. Such adoption, amendment and rescission must be made as provided under the Maine Administrative Procedure Act;

[2011, c. 657, Pt. BB, §9 (AMD) .]

11. Educational program. Develop and implement, as an integral part of programs, an educational program; assist in the development of, and cooperation with, educational programs for employees of state and local governments and businesses and industries in the State; and convene and conduct conferences of public and private nonprofit organizations concerned with the development and operation of programs for Maine's aging population and incapacitated and dependent adults. Included is the power to sponsor the Blaine House Conference on Aging;

[2011, c. 657, Pt. BB, §9 (AMD) .]

11-A. Elderly Legal Services Program. Support and maintain an Elderly Legal Services Program, by agreement with such nonprofit organization as the department finds best able to provide direct services to those of Maine's elderly in greatest economic and social need throughout the State;

[2011, c. 657, Pt. BB, §9 (AMD) .]

11-B. Adult protective services. Administer a program of protective services as provided in chapter 958-A designed to protect incapacitated and dependent adults from abuse, neglect, exploitation and physical danger. The program is described in the Adult Protective Services Act;

[2011, c. 542, Pt. A, §40 (AMD) .]

11-C. Long-term care ombudsman program. Support and maintain a long-term care ombudsman program, in accordance with the federal 1987 Older Americans Act, 42 United States Code, as amended, by agreement with such nonprofit organization as the department finds best able to provide the services;

[2011, c. 657, Pt. BB, §9 (AMD) .]

12. Training programs. Foster, develop, organize, conduct or provide for the conduct of training programs for persons in the field of serving Maine's aging population and incapacitated and dependent adults;

[1989, c. 329, §16 (NEW) .]

13. Coordinate activities. Coordinate activities and cooperate with programs in this and other states for the common advancement of programs for Maine's aging population and incapacitated and dependent adults; and

[2011, c. 657, Pt. BB, §9 (AMD) .]

14. Establish and maintain an office.

[2011, c. 657, Pt. BB, §9 (RP) .]

15. Duties. Do such other acts and exercise such other powers necessary or convenient to execute and carry out the purposes and authority expressly granted in this Part.

[1973, c. 793, §6 (NEW) .]

SECTION HISTORY

1973, c. 630, §1 (NEW). 1973, c. 793, §6 (RPR). 1975, c. 293, §4 (AMD). 1981, c. 463, §D1 (AMD). 1981, c. 470, §§A104-A111 (AMD). 1983, c. 523, §1 (AMD). 1989, c. 329, §16 (AMD). 1991, c. 622, §QQ1 (AMD). 2003, c. 653, §21 (AMD). 2003, c. 689, §B7 (REV). 2011, c. 542, Pt. A, §§39, 40 (AMD). 2011, c. 657, Pt. BB, §9 (AMD). 2017, c. 402, Pt. C, §72 (AMD). 2017, c. 402, Pt. F, §1 (AFF).

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