



130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1773

H.P. 1324

House of Representatives, December 2, 2021

**An Act To Make MaineCare Rules Pertaining to Global Home and
Community-based Services Waiver Programs and Person-centered
Planning and Settings Major Substantive Rules**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on November 30, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CRAVEN of Lewiston.

Cosponsored by Representatives: ARFORD of Brunswick, MADIGAN of Waterville, MEYER of Eliot, Senator: CLAXTON of Androscoggin.

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

3 **Whereas,** the Department of Health and Human Services proposed new routine
4 technical rules relating to global home and community-based services waiver programs and
5 person-centered planning and settings in order to implement certain federal requirements
6 relating to home and community-based waiver programs; and

7 **Whereas,** the proposed rules affect adult MaineCare members with physical
8 disabilities and adults who are elderly who are receiving MaineCare services under a
9 waiver granted by the federal Department of Health and Human Services, Centers for
10 Medicare and Medicaid Services; and

11 **Whereas,** the Legislature has an important role in ensuring that rules adopted by the
12 Department of Health and Human Services maintain access to services for adults with
13 disabilities and adults who are elderly; and

14 **Whereas,** the proposed rules make major changes that warrant legislative
15 involvement and oversight as soon as possible; and

16 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
17 the meaning of the Constitution of Maine and require the following legislation as
18 immediately necessary for the preservation of the public peace, health and safety; now,
19 therefore,

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

21 **Sec. 1. 22 MRSA §3197** is enacted to read:

22 **§3197. Rulemaking relating to certain federal requirements for home and**
23 **community-based services**

24 The department shall adopt rules governing home and community-based services for
25 an adult MaineCare member with a physical disability or an adult who is elderly who is
26 receiving MaineCare services under a waiver granted by the federal Department of Health
27 and Human Services, Centers for Medicare and Medicaid Services to implement the federal
28 requirements of Section 1915(c) of the United States Social Security Act relating to person-
29 centered planning, requirements to facilitate an individual's dignity and individual choice,
30 requirements for provider-owned or provider-controlled residential settings, provider
31 qualifications and department oversight and enforcement. Notwithstanding sections 42 and
32 3173 and any other provision of law to the contrary, rules adopted pursuant to this section
33 before January 1, 2023 are major substantive rules as defined in Title 5, chapter 375,
34 subchapter 2-A. After January 1, 2023, rules adopted pursuant to this section are routine
35 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

36 **Sec. 2. Department of Health and Human Services may not adopt routine**
37 **technical rules to implement Section 1915(c) of the United States Social**
38 **Security Act.** Except as provided in the Maine Revised Statutes, Title 22, section 3197,
39 the Department of Health and Human Services may not adopt or enforce the routine
40 technical rules proposed on August 10, 2021 to be adopted as the department's rule 10-144
41 C.M.R. Chapter 101: MaineCare Benefits Manual, Chapter I, Section 6, Global HCBS
42 Waiver Person-Centered Planning and Settings Rule.

