

131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 874

S.P. 371

In Senate, February 24, 2023

An Act to Address the Shortage of Direct Care Workers for Children with Disabilities in Maine

(EMERGENCY)

Reference to the Committee on Health and Human Services suggested and ordered printed.

, h GT

DAREK M. GRANT Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

- 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,** a shortage of direct care workers has resulted in individuals, including 4 children, who are eligible for in-home personal care services but are not receiving critical 5 services; and
- 6 **Whereas,** parents of children eligible for in-home personal care services are leaving 7 paid employment to provide care in the absence of available direct care workers, resulting 8 in economic hardship; and
- 9 Whereas, this legislation requires the Department of Health and Human Services to
 10 submit a request for the necessary state plan amendment or Medicaid waiver from the
 11 Federal Government as soon after enactment as possible; and
- 12 Whereas, in the judgment of the Legislature, these facts create an emergency within 13 the meaning of the Constitution of Maine and require the following legislation as 14 immediately necessary for the preservation of the public peace, health and safety; now, 15 therefore,
- 16 Be it enacted by the People of the State of Maine as follows:
- 17 Sec. 1. 22 MRSA §3174-KKK is enacted to read:

18 §3174-KKK. In-home personal care services to minors

- 19 **1. Reimbursement for parent.** A parent of a child who is eligible for in-home 20 personal care services under the MaineCare program may register as a personal care agency 21 as defined in section 1717, subsection 1, paragraph C and determined in department rule 22 and receive reimbursement for providing those services to the child if the following 23 requirements are met:
- 24A. The parent has made reasonable efforts to obtain regular in-home personal care25services; and
- B. The parent has satisfied the requirements of the applicable background check
 required for providers of in-home personal care services.

28 2. Employer designation. In order for a parent to be registered as a personal care
 29 agency under subsection 1, another individual who is not a parent of the child must be
 30 designated as the employer. The person designated as the employer must be approved by
 31 both the department and the parent to act in the child's interest.

32 3. Rulemaking. The department shall adopt rules to implement this section. Rules
 adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter
 34 375, subchapter 2-A.

Sec. 2. Department of Health and Human Services to seek federal approval. The Department of Health and Human Services shall seek any necessary state plan amendments or waivers from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to implement the Maine Revised Statutes, Title 22, section 3174-KKK. The department shall submit the requests for approval no later than 6 months after the effective date of this Act. **Sec. 3. Rulemaking.** The Department of Health and Human Services shall adopt rules in accordance with the Maine Revised Statutes, Title 22, section 3174-KKK, subsection 3 no later than 6 months after receiving the necessary approvals from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

6 Sec. 4. Contingent effective date. That section of this Act that enacts the Maine 7 Revised Statutes, Title 22, section 3174-KKK takes effect only if the necessary approvals 8 sought pursuant to section 2 of this Act are received. The Commissioner of Health and 9 Human Services shall notify the Secretary of State, Secretary of the Senate, Clerk of the 10 House of Representatives and Revisor of Statutes when approvals sought under section 2 11 have been received.

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

14

SUMMARY

15 This bill allows for the reimbursement of a parent providing in-home personal care services to the parent's child by allowing the parent to register as a personal care agency if 16 17 the parent has made reasonable efforts to obtain regular in-home personal care services and has passed a background check. The child must be eligible for the MaineCare program. An 18 19 individual who is not a parent of the child must be designated as the employer and must be 20 approved as the employer by both the parent and the Department of Health and Human 21 Services. The department is required to request the necessary state plan amendments or waivers from the federal Department of Health and Human Services, Centers for Medicare 22 and Medicaid Services and adopt routine technical rules upon federal approval. 23