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## **Resolve, To Amend the Rules Concerning Long-term Care Services To Better Support Family Caregivers**

**Sec. 1 Rule amendment. Resolved:** That the Department of Health and Human Services shall amend its rules pertaining to eligibility for long-term care services under the MaineCare program or state-funded programs as follows:

1. The department may not require, as a condition of eligibility, that an applicant have a prospective, legally enforceable written agreement governing the paid services provided by a relative;
2. The department may not presume that an applicant who has received paid services from a family member without a written agreement has done so for the purpose of qualifying for public benefits;
3. The department may not presume that an applicant has made a disqualifying transfer of assets in the absence of a statement from a physician that the paid services provided by a relative were necessary. The department may require that the applicant, at the time of application, obtain a written statement from the applicant's physician confirming that the services provided in the past were necessary to prevent the applicant's transfer to residential or nursing facility care;
4. The department may not presume that an applicant who lives in a residential care or nursing facility has made a transfer of assets for less than fair market value, triggering a period of ineligibility, if the applicant pays reasonable compensation to a relative to provide services that are not provided by the facility or that supplement the services provided by the facility;
5. The department shall amend its rules to change the definition of "services" to mean assistance provided by a relative with activities of daily living or instrumental activities of daily living; and
6. With respect to an applicant's reimbursement of a relative for the relative's providing necessities or purchasing goods and services for the applicant, the department may not require, as a condition of eligibility, a written agreement governing such reimbursement or a statement from a physician that the purchases are or were necessary.

The department shall adopt rules to incorporate the amendments required by this resolve by October 15, 2011 and shall notify the Joint Standing Committee on Health and Human Services of the completion of the rulemaking. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

### **SUMMARY**

This resolve requires the Department of Health and Human Services to amend its rules on eligibility for long-term care services provided under the MaineCare program or state-funded programs to remove provisions and presumptions that disqualify some persons from eligibility for long-term care. Amendments to the rules will enable more people to qualify for long-term care services by removing the requirements of written agreements and by removing the presumptions regarding the purpose of paying for services and certain transfers. The resolve directs the department to adopt routine technical rules to

incorporate the amendments by October 15, 2011 and to notify the Joint Standing Committee on Health and Human Services.