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An Act To Ensure Access to Community Services for Persons with Intellectual Disabilities or Autism

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

Whereas, the people of the State expect and need to ensure that high-quality care is provided in community-based care settings for vulnerable persons with intellectual disabilities or autism; and

Whereas, reimbursement rates paid for community-based services for persons with intellectual disabilities or autism have been reduced by 12% relative to rates established in 2007, while the federal Consumer Price Index medical care services index has increased by 17% since 2007; and

Whereas, the capacity of community-based providers to serve persons with intellectual disabilities or autism has been impaired by declining reimbursement rates and increased costs beyond the control of those providers; and

Whereas, in order to provide high-quality care to persons with intellectual disabilities or autism, the Legislature must take prompt action to correct chronic underfunding and to ensure the continued viability of these providers; and

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

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

Sec. 1. 22 MRSA §3195 is enacted to read:

§ 3195. Compensation for care provided to persons with intellectual disabilities or autism

1. Reimbursement. The department shall reimburse services provided to MaineCare member adults with intellectual disabilities or autism under a waiver granted by the federal Centers for Medicare and Medicaid Services for home-based and community-based care on the basis of rates and a methodology for application of the rates that reflects assessment of individual need and applies criteria for resource allocation established by the department pursuant to this section. This section applies to all funds, including federal funds, paid by any agency of the State to a provider for care covered by the waiver.

2. Rulemaking. The department shall adopt rules providing reimbursement rates under this section that:

A. Take into account the costs of providing care and services in conformity with applicable state and federal laws, rules, regulations and quality and safety standards;

B. Are sufficient to ensure that an adequate number of providers of services are available to provide access to those services for all MaineCare members who require them, including without limitation compliance with all federal standards with regard to access to covered services under the Medicaid program;

C. Are based upon the costs and reimbursement levels under the methodology and findings contained in a report by the department pursuant to Public Law 2005, chapter 12, Part CCCC, section 1 and implemented in 2007, adjusted for the cumulative increase in costs measured by the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index medical care services index in each year from 2007 to 2016;

D. Provide for and reflect, for each state fiscal year ending after 2016, an annual inflation adjustment using a regional inflation factor established by a national economic research organization; and

E. Take into account competitive wage markets, state and federal requirements with regard to training and qualifications of staff, and increases in the cost of new technologies required and expected of providers since 2007.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

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

SUMMARY

This bill requires the Department of Health and Human Services to reimburse services provided to MaineCare member adults with intellectual disabilities or autistic disorder under a waiver granted by the federal Centers for Medicare and Medicaid Services for home-based and community-based care on the basis of rates and a methodology for application of the rates that reflects assessment of individual need and applies criteria for resource allocation established by the department pursuant to criteria established in the bill. The bill also directs the department to adopt rules providing reimbursement rates that take into account specified costs of care and service; suffice to ensure access, including compliance with federal standards; are based on a 2007 report of the department adjusted for cost increases from 2007 to 2016; provide future annual inflation adjustments; and consider competitive wage markets, training and qualification requirements and increased costs of new technologies.