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Legislative Document

No. 1574

H.P. 1171

House of Representatives, April 27, 2021

**An Act To Ensure Support for Adults with Intellectual Disabilities
or Autism with High Behavioral Need**

(EMERGENCY)

Received by the Clerk of the House on April 23, 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 MEYER of Eliot.

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 does not currently propose
4 or require specialized reimbursement rates, also known as behavior add-ons, to providers
5 of positive behavioral support and behavior management services to persons with
6 intellectual disabilities or autism experiencing a personal crisis that could lead to the loss
7 of their home, program or employment; and

8 **Whereas,** providers of positive behavioral support and behavior management services
9 to persons with intellectual disabilities or autism are unable to manage situations that
10 involve specialized training because the reimbursement rates are insufficient to provide the
11 services; and

12 **Whereas,** unresolved crisis situations for persons with intellectual disabilities or
13 autism currently result in more traumatic and expensive outcomes and will continue if
14 specialized reimbursement rates are not immediately established and funded; and

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

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

20 **Sec. 1. 34-B MRSA §5440** is enacted to read:

21 **§5440. Reimbursement rates for plans to manage challenging behavior**

22 The department shall develop reimbursement rates for positive behavioral support
23 plans and behavior management plans, as determined in department rule, provided to
24 persons with intellectual disabilities or autism. Reimbursement rates must be adequate to
25 cover the costs of clinical oversight, equipment and staff with additional training,
26 qualifications and experience required to manage challenging behavior or prevent a
27 personal crisis as described in section 5206, subsection 1. The department shall adopt rules
28 to implement this section. Rules adopted pursuant to this section are major substantive
29 rules as defined in Title 5, chapter 375, subchapter 2-A.

30 **Sec. 2. Department of Health and Human Services to develop specialized**
31 **reimbursement rates.** No later than July 1, 2021, the Department of Health and Human
32 Services shall establish by rule specialized reimbursement rates for positive behavioral
33 support plans and behavior management plans as required in department rule under 14-197
34 C.M.R. Chapter 5: Regulations Governing Behavioral Support, Modification and
35 Management for People with Intellectual Disabilities or Autism in Maine that is higher than
36 other personal plan services required by the rule. The reimbursement rates must be
37 adequate to cover all aspects of the plans, including clinical oversight, equipment and staff
38 with additional training, qualifications and experience required for managing challenging
39 behavior or preventing a personal crisis. Rules adopted pursuant to this section are major
40 substantive rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter
41 2-A and required by Title 34-B, section 5440.

