



128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1708

H.P. 1188

House of Representatives, December 22, 2017

**An Act To Allow Qualifying Medicaid Recipients To Hire Relatives
and Legal Guardians for Consumer-directed Attendant Services**

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

Received by the Clerk of the House on December 19, 2017. 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 "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative COREY of Windham.
Cosponsored by Senator DIAMOND of Cumberland and
Representatives: BICKFORD of Auburn, BRYANT of Windham, FAY of Raymond,
MALABY of Hancock, MARTIN of Eagle Lake, NADEAU of Winslow, VACHON of
Scarborough, Senator: BREEN of Cumberland.

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

2 **Sec. 1. 22 MRSA §3174-AAA** is enacted to read:

3 **§3174-AAA. Eligible caregivers**

4 **1. Definition.** For the purposes of this section, "consumer-directed attendant
5 services" means services that are reimbursable under the MaineCare program and provide
6 assistance with the activities of daily living in the home or community for a MaineCare
7 member who directly employs and trains the attendant, supervises the provision of
8 reimbursable services and, if necessary, terminates the services of the attendant.

9 **2. Relatives or legal guardians as attendants.** A MaineCare member approved for
10 consumer-directed attendant services under the MaineCare program may employ a family
11 member, including a spouse, parent, stepparent, adult child and other legally responsible
12 relative, or the legal guardian of the member as an attendant to be reimbursed by the
13 MaineCare program.

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

17 **Sec. 2. Waiver request.** No later than January 1, 2019, the Department of Health
18 and Human Services shall submit a waiver request to the United States Department of
19 Health and Human Services, Centers for Medicare and Medicaid Services that requests
20 approval for Medicaid reimbursement for employment of a relative or legal guardian
21 providing consumer-directed attendant services to a MaineCare member receiving those
22 services under rule Chapter 101: MaineCare Benefits Manual, Chapter II, Section 12.
23 The department shall take all reasonable and necessary steps to seek approval of the
24 waiver.

25 **Sec. 3. Rulemaking.** Within 180 days of receiving approval for coverage by the
26 United States Department of Health and Human Services, Centers for Medicare and
27 Medicaid Services pursuant to a waiver request in accordance with this Act, the
28 Department of Health and Human Services shall adopt rules to implement the Maine
29 Revised Statutes, Title 22, section 3174-AAA. Rules adopted pursuant to this section are
30 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

31 **Sec. 4. Contingent effective date.** That section of this Act that enacts the Maine
32 Revised Statutes, Title 22, section 3174-AAA takes effect only if the United States
33 Department of Health and Human Services, Centers for Medicare and Medicaid Services
34 approves a waiver request submitted in accordance with this Act. Upon approval of the
35 waiver request, the Commissioner of Health and Human Services shall notify the
36 Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives
37 and the Revisor of Statutes of that fact.

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SUMMARY

This bill allows a MaineCare member approved for consumer-directed attendant services under the MaineCare program to hire any family member, including a spouse, or a legal guardian to provide those services in the home or community. It requires the Department of Health and Human Services to submit a waiver request to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services no later than January 1, 2019. The department is required to adopt rules within 180 days of receiving approval for the waiver.