



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 517

S.P. 178

In Senate, February 9, 2017

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### **An Act To Amend Principles of Reimbursement for Nursing Facilities and for Residential Care Facilities**

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator MAKER of Washington.  
Cosponsored by Representative TUELL of East Machias and  
Senators: CYRWAY of Kennebec, DIAMOND of Cumberland, LANGLEY of Hancock,  
ROSEN of Hancock, Representatives: HAMANN of South Portland, HICKMAN of Winthrop,  
PIERCE of Falmouth, TURNER of Burlington.

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

2 **Sec. 1. 22 MRSA §1720**, as enacted by PL 2005, c. 242, §1, is amended to read:

3 **§1720. Nursing facility medical director reimbursement**

4 The department shall include in its calculation of reimbursement for services  
5 provided by a nursing facility ~~an allowance for the cost of~~ incurred by the facility for a  
6 medical director in a base year amount not to exceed \$10,000, with that amount being  
7 subject to an annual cost-of-living adjustment.

8 **Sec. 2. 22 MRSA §7863** is enacted to read:

9 **§7863. Reimbursement for residential care facilities; room and board costs**

10 **1. New construction, acquisitions and renovations.** Notwithstanding any other  
11 law to the contrary, the department shall permit a capital expenditure by a residential care  
12 facility for new construction, an acquisition or a renovation that is less than \$2,000,000  
13 and shall provide reimbursement to the facility for the capital expenditure without prior  
14 approval. The department shall permit a residential care facility to seek and obtain  
15 approval for a capital expenditure that exceeds \$2,000,000. The department shall require  
16 that capital expenditures for energy efficiency improvements, for replacement equipment,  
17 for information systems, for communications systems and for parking lots and garages be  
18 permitted without prior approval and not be counted toward the determination of the  
19 \$2,000,000 threshold.

20 **2. Extraordinary circumstance allowance.** A residential care facility that  
21 experiences an unforeseen and uncontrollable event during a year that results in  
22 unforeseen or uncontrollable increases in expenses may request an adjustment to a  
23 prospective rate in the form of an extraordinary circumstance allowance. As used in this  
24 subsection, "extraordinary circumstance" includes, but is not limited to, an event of a  
25 catastrophic nature, an increase in minimum wage or social security expenses or  
26 employee retirement contribution expenses in lieu of social security expenses, a change in  
27 the number of licensed beds and a change in licensure or accreditation requirements. If  
28 the department concludes that an extraordinary circumstance existed, the department shall  
29 make an adjustment in the form of a supplemental allowance. The department shall  
30 determine from the nature of the extraordinary circumstance whether the extraordinary  
31 circumstance will have a continuing impact and whether the allowance should be  
32 included in the computation of the base rate for the succeeding year. Reimbursement to a  
33 residential care facility for additional costs arising from an extraordinary circumstance  
34 must be paid via a supplemental payment that is added to the per diem reimbursement  
35 rate until the department adjusts the direct care price, the routine limit and the personal  
36 care services limit, as applicable, to fairly and properly reimburse a facility for these  
37 costs.

38 **3. Regulatory compliance costs.** Costs incurred by a residential care facility to  
39 comply with changes in federal or state laws, regulations and rules and not otherwise  
40 specified in rules adopted by the department are considered reasonable and necessary  
41 costs. Reimbursement for these additional regulatory costs must be paid via a

1 supplemental payment that is added to the per diem rate until the department adjusts the  
2 direct care price, the routine limit and the personal care services limit, as applicable, to  
3 fairly and properly reimburse facilities for these costs.

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

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## SUMMARY

8 This bill requires the Department of Health and Human Services to permit capital  
9 expenditures by residential care facilities for new construction, acquisitions and  
10 renovations that are less than \$2,000,000 and to provide reimbursement without prior  
11 approval. It requires the department to provide an extraordinary circumstance allowance  
12 in permitted reimbursement to residential care facilities. It provides that costs incurred by  
13 a residential care facility to comply with federal or state laws, regulations and rules are  
14 considered reasonable and necessary costs. It removes from current law on  
15 reimbursement for services provided by a nursing facility the \$10,000 cap for the cost of  
16 a medical director and instead requires the department to provide in its calculation of  
17 reimbursement for services the cost incurred by the nursing facility for the cost of a  
18 medical director.