

## STATE OF MAINE

—  
 IN THE YEAR OF OUR LORD  
 TWO THOUSAND AND SEVENTEEN

—  
 H.P. 841 - L.D. 1205

**Resolve, Regarding Legislative Review of Portions of Chapter 101:  
 MaineCare Benefits Manual, Chapter III, Section 21, Allowances for Home  
 and Community Services for Adults with Intellectual Disabilities or Autism  
 Spectrum Disorder, a Late-filed Major Substantive Rule of the Department  
 of Health and Human Services**

**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 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

**Whereas,** the above-named major substantive rule has been submitted to the Legislature outside the legislative rule acceptance period; and

**Whereas,** immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; 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

**Sec. 1. Adoption. Resolved:** That final adoption of portions of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 21, Allowances for Home and Community Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder, a provisionally adopted major substantive rule of the Department of Health and Human Services that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized only if:

1. In Section 1050 of the rule, the definition of "per diem" is changed to:

A. Remove the proposed requirement that a provider bill only for days on which a member is receiving per diem home support at 11:59 p.m.;

B. Clarify that there is no requirement that a provider bill only for days on which a member is physically present in the home at 11:59 p.m.; and

C. Clarify that on days when a member is transitioning between providers of home support, only the provider providing home support services at 11:59 p.m. may bill for home support; and

2. In Section 2000 of the rule, relating to audit of services provided, the proposed change in the documentation requirement for staffing schedules is removed so that the documentation requirement remains as it is in current rules, which require documentation showing the hours and the name of the direct staff scheduled to work at the facility.

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