



March 13, 2025

Senator Ingwersen, Chair
Representative Meyer, Chair
Members, Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, ME 04333-0100

Re: LD 169 – *An Act to Amend the Laws Regarding Estate Recovery and Planning for Long-term Care*

Senator Ingwersen, Representative Meyer, and members of the Joint Standing Committee on Health and Human Services, thank you for the opportunity to provide information in opposition of LD 169, *An Act to Amend the Laws Regarding Estate Recovery and Planning for Long-term Care*.

This bill requires the Department of Health and Human Services to return the state portion of estate recovery under the MaineCare program to the estate of the former MaineCare member. This requirement does not impact the portion that is required to be paid to the Federal Government for estate recovery for Medicaid. The bill requires the Department to amend its rules in Chapter 332: MaineCare Eligibility Manual, Part 15, Transfer of Assets, to change the standard for transfer of assets from "clear and convincing evidence" to a "preponderance of evidence." The rule is a major substantive rule. The bill also requires the Department to develop educational materials to assist individuals with accessing programs that allow family members or legal guardians to be reimbursed for providing personal care services to a family member who is eligible to receive home and community-based services under the MaineCare program or a state-funded program. Further, it requires the Department to develop educational materials to assist individuals with long-term care planning, estate planning and asset transferring and sheltering.

As written, LD 169 does not conflict with federal regulations regarding estate recovery. However, while the estates of some deceased MaineCare members would be subject to a reduced rate of estate recovery, adoption of the proposed legislation would result in decreased estate recovery revenue for the Department at a time MaineCare is facing a significant budget shortfall. In addition, this bill would create burdensome operational changes within the Department.

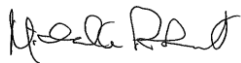
The Department does not presently negotiate and settle estates on a claim-by-claim basis with federal funding rates (FMAPs) tied to specific dates of service, which this bill would require. Sending the state share of Estate Recovery back to the estate after we recoup from the estate will require additional staff to set up estate representatives as vendors so we can issue checks to them and account for this money. New staff would also be needed to undertake the tasks in this bill including meetings with advocates and recording minutes and participation in the development of educational materials.

The Department is also concerned about the requirement that staff “develop educational materials to assist individuals with long-term care planning, estate planning and asset transferring and sheltering.” These matters are best left with financial planners and attorneys, not Department staff.

Changes proposed in LD 169 would result in increased operational responsibilities for the Department and reduce revenue received through existing estate recovery processes at a time the state is facing a significant MaineCare budget shortfall. The Department recommends maintaining current practices at this time.

Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Probert".

Michelle Probert
Director
Office of MaineCare Services
Maine Department of Health and Human Services