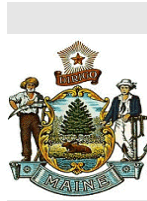


Janet T. Mills
Governor

Sara Gagné-Holmes
Commissioner



Maine Department of Health and Human Services
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March 24, 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 279 –*An Act to Address the Shortage of Direct Care Workers for Children with Disabilities in Maine*

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 279, *An Act to Address the Shortage of Direct Care Workers for Children with Disabilities in Maine*.

This bill permits reimbursement of a parent providing in-home personal care services to the parent's child by allowing the parent to register as a personal care agency if the parent has made reasonable but unsuccessful efforts to obtain regular in-home personal care services and has passed a background check. The child must be eligible for the MaineCare program. An individual who is not a parent of the child must be designated as the personal care services employer of the parent and must be approved as the employer by both the parent and the Department of Health and Human Services (the "Department"). The Department is required to request the necessary state plan amendments or waivers from the federal Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) and adopt routine technical rules within 6 months of federal approval.

This bill conflicts with federal regulations which define who can provide personal care services under the Medicaid state plan absent a waiver. Parents are not allowed to be reimbursed under Medicaid for providing personal care services for their children. The Code of Federal Regulations (42 C.F.R. Section 440.167) states in relevant part (emphasis added):

- a) ***Personal care services*** means services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or institution for mental disease that are –
 - 1) Authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State;
 - 2) ***Provided by an individual who is qualified to provide such services and who is not a member of the individual's family***; and
 - 3) Furnished in a home, and at the State's option, in another location.
- b) For purposes of this section, family member means a legally responsible relative.

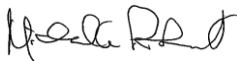
The State would not be able to receive federal match to reimburse parents who provide personal care services to their children under any existing section of the MaineCare Benefits Manual (MBM). Operationalization of this program would require federal approval through an 1115 or 1915(c) Waiver. Since MaineCare does not currently cover 1915(c) Home and Community Based Services (HCBS) - which include personal care services- to minors (we note that the bill does not specify whether “children” must be minors), an 1115 waiver would be the only way to develop a separate program for this benefit as the delivery of personal care services by parents to their children is otherwise not federally permissible. The application for, and implementation evaluation and oversight of, such waivers is a significant effort for the Department, and approval from CMS would likely take a minimum of 3 years following submission of the waiver application and additional time for MaineCare agency rulemaking after waiver approval.

The Department has already extended many resources to implement LD 346 from the 131st Legislature which allows qualified parents to receive reimbursement for delivering Home Health Aide services to their eligible minor children under MBM Chapter II, Section 40, Home Health Services. Implementation will continue over the next year as the Department works on related rules.

Additionally, as written, the bill proposes parents may become registered as a personal care agency directly with the Department. The licensing process, including a minimum of a \$200 licensing fee, and required background check and fee, could be a potential barrier to parents seeking to provide services. It is also unclear who would be qualified as an employer designated to oversee the licensed parent.

The Department would be happy to provide additional information and further discuss the challenges associated with LD 279 and strong opposition to allowing parents to register as personal care agencies. Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,



Michelle Probert

Director

Office of MaineCare Services

Maine Department of Health and Human Services