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Commissioner



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March 28, 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 763 – *An Act to Improve Long-term Care by Providing Funding for Nursing Facilities*

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 to LD 763, *An Act to Improve Long-term Care by Providing Funding for Nursing Facilities*.

This bill provides one-time funding of \$50,000,000 General Fund surplus to the Department of Health and Human Services (the “Department”), Nursing Facilities program, Nursing Facility Reform Transition Fund Other Special Revenue Funds account to fund components of nursing facility rates. The Department believes this funding is unnecessary as funds required to implement nursing facility rate reform have already been appropriated and the allocation of additional funds undermines the rate reform process set forth in MRS Title 22, section 3173-J.

The Nursing Facility Reform Transition Fund (the “Fund”) was established last year in Part SSS of the supplemental budget, P.L. 2023, ch. 643, for the purpose of funding components of nursing facility rates (set to begin on January 1, 2025) and supporting nursing facilities as MaineCare phases in multi-year comprehensive rate changes (to be completed by January 1, 2028) that are the result of rate system reform pursuant to Public Law 2021, chapter 639. The use of the Fund was determined as part of the MaineCare rate system reform process, as outlined in MRS Title 22, section 3173-J.

The Fund consists of \$72.8 million (\$27.6 million state share) and will be paid out over the course of three years, 2025 through 2027. This investment is in addition to \$29 million provided previously for rate reform efforts as well as \$10 million (\$3.2 million general fund) provided in the FY 2025 supplemental budget; the Department is requesting an additional \$10 million annually in the FY 2026-2027 biennial budget to annualize this funding. The Fund will lapse when funding is fully expended.

The Department believes that the Fund is adequately resourced, and that the appropriation proposed by LD 763 would result in additional payments to nursing facilities that were not contemplated as part of the MRS Title 22, section 3173-J rate setting process. The bill also lacks specificity about how these additional funds should be used to “fund components of nursing facility rates,” which makes it difficult for the Department to determine impacts to internal systems and processes and on providers, and whether the additional funding would benefit MaineCare members.

In addition, investing an additional \$50 million in nursing facility services dramatically increases the risk of exceeding the applicable Upper Payment Limit (UPL) established by the federal Department of Health

and Human Services, Centers for Medicare & Medicaid Services (CMS). The Department recently eliminated most cost settlement practices for nursing facilities as part of rate reform; as a result, the payment system no longer includes guardrails to ensure we stay under the UPL as mandated by CMS. Any payments made to nursing facilities in excess of the UPL would require recoupment.

We ask the Committee to support the Department's existing efforts to utilize previously allocated funds to accomplish the intended purpose of the Nursing Facility Reform Transition Fund as established in P.L. 2023, ch. 643 Part SSS. 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", written in a cursive style.

Michelle Probert

Director

Office of MaineCare Services

Maine Department of Health and Human Services