

Janet T. Mills
Governor

Sara Gagné-Holmes
Commissioner



Maine Department of Health and Human Services
Office of MaineCare Services
11 State House Station
Augusta, Maine 04333-0011
Tel; (207) 287-2674; Fax (207) 287-2675
TTY: Dial 711 (Maine Relay)

April 11, 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 1237 – *An Act to Support Adult Family Care Homes and Residential Care Facilities That Are Small or Located in Rural and Isolated Areas of the State*

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 1237, *An Act to Support Adult Family Care Homes and Residential Care Facilities That Are Small or Located in Rural and Isolated Areas of the State*.

While the title of the bill references Adult Family Care Homes and Residential Care Facilities, many of the bill's provisions relate to nursing facilities. These provisions include adding a requirement to 22 MRS § 1708 that would require the Department of Health and Human Services (the "Department"), as part of developing MaineCare rules for nursing facility reimbursement, to determine the impact of reimbursement on small, rural, isolated, and island facilities and reduce impacts to those communities, as well as the impact on the safety and quality of services. In addition, the bill authorizes the Department to adopt staffing requirements for nursing facilities and requires the Department to consider the impact of these requirements on small, rural, isolated and island facilities, and allows the Department to adopt different staffing requirements based on those unique circumstances.

The new considerations added to 22 MRS §1708 are unnecessary and burdensome. The Department completed an analysis of the impact of bed size, rurality, and island location on nursing facility costs as part of MaineCare's recent nursing facility rate study and found no meaningful association between these factors and costs that would warrant adjustment in rates for certain facilities.

The bill's provisions authorizing the Department to adopt rules to govern staffing requirements for nursing facilities are also unnecessary. The Department already has the authority to, and does, establish staffing minimums, and the state must also comply with federal minimum staffing requirements for nursing homes outlined in CMS 3442-F. Staffing assumptions under the current reimbursement model exceed both state and federal minimum requirements.

Along with the proposed changes related to nursing facilities, Section 5 of the bill requires the Department to amend its rules in Chapter 101: MaineCare Benefits Manual, Chapters II and III, Section 2, Adult Family Care Services; and Chapter III, Section 97, Private Non-Medical Institution (PNMI) Services, Appendix C, to provide a supplemental payment of 10% to the MaineCare rates for facilities that have fewer than 10 beds or are at least 35 miles away from the nearest similar facility.

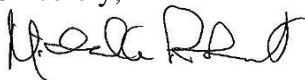
The Department opposes Section 5 of LD 1237 given the current budget shortfall and established reimbursement determination processes set forth in 22 M.R.S. § 3173-J. The Department recently provided significant investment in both Nursing Facility (January 2025) and Adult Family Care Homes (January 2023) and revised 10-144 CMR Ch. 113 for licensure of Assisted Housing facilities (which includes Adult Family Care Homes), a major substantive rule being heard before the Legislature this session. The rates for Adult Family Care Homes explicitly recognized increased costs for smaller facilities; upon implementation, rates increased 67% for seven and eight bed facilities, and 110% for facilities with six or fewer beds. In addition, it is unclear if the 10% supplemental payment for Adult Family Care and PNMI C services is actually intended to be a true supplemental payment or a rate increase.

Should LD 1237 move forward as drafted, the Department would be required to create an evaluation process to determine financial, safety and quality impacts on small, rural, isolated, and island facilities with no definition of these facilities. The Department would need to incorporate consideration of undefined terms (rural, small, isolated) into its facility payment methodology and the impact of the rate on the community in which the facility is located in order to determine full fiscal impact of LD 1237. For the supplemental payments described in Section 5 of the bill, the Department estimates a combined federal and state impact of \$2,821,561. This analysis would be especially difficult given the very small numbers of facilities in isolated and island locations.

The Department would also have to evaluate the impact on communities and services in regard to rates and staffing rules. The rate determination process set forth in 22 M.R.S. § 3173-J will still need to be followed. The Department would be required to request the necessary state plan amendments from the federal Department of Health and Human Services, Centers for Medicare & Medicaid Services and adopt routine technical rules upon federal approval. Completing and obtaining approval of the required state plan amendment, developing new rates and completing required rulemaking is not possible by January 1, 2026, as proposed in LD 1237.

The Department urges the committee to support the major substantive rulemaking amending 10-144 CMR Ch. 113 for licensure of Assisted Housing Facilities and ongoing MaineCare nursing facility rate reform efforts. 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