



**Testimony of Laura Cordes
In Support of LD 744**

*An Act to Ensure Access to Services for Adults with Intellectual and Developmental Disabilities by
Requiring Rate Studies for Home and Community-based Services*
**Joint Standing Committee on Health and Human Services
April 13, 2023**

Good afternoon, Senator Baldacci, Representative Meyer and esteemed members of the Health and Human Services Committee.

My name is Laura Cordes. I am the Executive Director of the Maine Association for Community Service Providers (MACSP). MACSP is the statewide association of 85 individual, mission driven agencies providing person centered and individualized educational, vocational, residential and community supports, as well as specialized services and care to several thousand of Maine's children and adults who have either intellectual disabilities, autism spectrum disorder, or brain injuries, so that they may live full and meaningful lives in the community.

Thank you for the opportunity to provide testimony in support of LD 744.

I want to acknowledge and thank Senator Baldacci for sponsoring the bill and bringing forward the proposed amendment today. As now proposed, this bill directs the Department to conduct rate studies in 2024 specifically for MaineCare HCBS Group Home Services as well as Community Supports and Community Membership services for people with intellectual disabilities or autism spectrum disorder.

This committee and your colleagues before you have done significant work in lifting up the larger direct care workforce. *We greatly appreciate the 125% reform, the Department's efforts to invest in workforce development and the cost of living adjustments received, as well as the flexibilities to date. While we have seen some stabilization that is not the case for group home and community support services.*

We are grateful for the unanimously supported HHS Committee amendment passed last year to restore the shortfall to the rate in the budget, but it was not adopted in the budget, leaving providers behind.

Among the many services our members provide, more than half provide 24/7 care to more than 1500 Mainers living in an estimated 650, 2-6-person Group Homes throughout the state. Our members also provide Section 21 and 29 Community Supports services to thousands of adults with intellectual disabilities and autism helping to create essential links to the community and paths to meaningful community engagement, employment, and life skill development. Through the Appendix K allowances, many of our members have just started to provide similar, but new, Community Membership services.

In the last two years, there has been an increasing and alarming number of group home and community support program closures. An estimated 75 homes and 40 community support program locations have closed, disrupting hundreds of Maine's most vulnerable citizens, often uprooting them from the nearby family and communities where they have built trusting relationships and meaningful lives. Another 20 homes are expected to close by June.

The changes in the group home and community support service rate methodology occurred without notice or transparency before the 125% initiative and the state's new rate setting system went into effect. Due to multiple changes in the service structure, staff to member ratio, and additional HCBS administrative requirements for Section 21 & 29 community support services, the rates are not adequate to support these community and 24/7 services and to retain or secure staff at a competitive wage.

Neither service has had an adopted rate study with IDD specific provider data in over a decade. The Community Support and Community Membership service rates were set without notice through a benchmarking process; rather than utilizing comprehensive rate setting methods. In the years following the closure of Pineland, services that support community inclusion are one of the greatest successes of Maine's HCBS model; but we are losing ground and losing it quickly. Delaying a viable rate for Community Support and Community Membership services will hasten program closures and reduce the likelihood of adopting future service models.

This bill would also direct the department to establish a work group to help determine a daily rate for Group Home services and to maintain some of the current staffing flexibility enacted during the pandemic, set to expire November 11, 2023 as a bridge until the rate studies and subsequent rate changes, including a daily rate can be implemented.

We very much appreciate the extension of a lower minimum staffing level for these group homes that the department has provided under the Appendix K waiver throughout the pandemic. We were relieved by the recent announcement that it will remain at 80% until November 2023.

Seven months from now we will face a cliff when we will be required to return to a level of 92.5%. With our current rates and below average unemployment, paired excessive dependence on overtime staffing¹, nothing that I hear from the field assures me that we will be able to rebuild that quickly and jump from 80 to 92.5%. The inability to meet this means that more homes will close and more lives will be disrupted. This is why we support moving the minimum staffing level to 85%.

Amidst the thoughtful discussion that this committee has had about the promising Lifespan program and options for new services being designed by the Department for people with disabilities, there has

¹ All of our members are using an incredible amount of overtime to reach the 80% staffing level to keep the people we serve supported in their homes. Thirty-four group home providers responding to a recent MACSP survey reported using 250,100 hours of overtime during October 1 - December 31, 2022 to achieve the 80% staffing levels in their homes. Without overtime, on a week to week basis, these same 34 providers would need an additional 521 Full Time Equivalent (FTE) positions per week.

been a shared concern about the current group home and community support programs staying in place for consumers and families.

You've received assurances from the Department that these services under Section 21 and 29 will remain in place.

I believe them. I also believe that there is a difference between a service that is in place and a service that is appropriately funded to be maintained and accessible to the people who rely on it. How will people who make the choice to stay in their home with the vital community and 24/7 support they rely on, be able to do so if rates are not adequate for providers to maintain the services?

How many more homes and program closures will we see before the new programs are in place? Reflecting on the current rate of closures, will there be an adequate number of providers to stand up these new programs?

We support the goals of the new rate setting system, we come before you not to ask for a specific rate but that you set in motion a public and transparent rate study that considers provider data in the next possible cycle, calendar year 2024 and to keep group home staffing levels at 85% until such a time that the new daily rate is available to providers.

Thank you for your consideration. Please reach out with any questions you may have.

Respectfully Submitted,

Laura Cordes
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Support LD 744 *An Act to Ensure Access to Services for Adults with Intellectual and Developmental Disabilities by Requiring Rate Studies for Home and Community-based Services*

What the bill does

This bill directs DHHS to conduct rate studies in 2024 for MaineCare Waiver Section 21 Agency Home Support & Section 21 and 29 Community Supports and Community Membership services for people with intellectual disabilities or autism spectrum disorder. It also directs OADS to convene a work group to advise the department on the development of a daily rate payment system for agency home support service providers to be incorporated into the rate determinations. The Department is required to implement the rates determined no later than January 31, 2025 and through a proposed amendment, extend a minimum staffing level requirement provided under the Appendix K waiver until such time that the new rate is in place.

The Problem

Vital housing and community support services for people with intellectual disabilities and autism are, once again, on the brink of collapse due to funding that does not support a living wage, forcing direct support professionals to leave this career for higher pay in other sectors and leading to high staff turnover and an inability to attract new workers. The crisis is compounded by increased expenses, inflation, a rising minimum wage, and a Maine unemployment rate of 2.8%, lower than the national average and lower than the pre-pandemic level of 3.1% in January of 2019. An estimated 75 homes and 40 community support program locations have closed in the last two years disrupting hundreds of Maine's most vulnerable citizens, often uprooting them from the nearby family and communities where they have made and built trusting relationships and meaningful lives.

The Solution

While higher rates are needed immediately to prevent the collapse of these services fundamental to the health and wellbeing of people with intellectual disabilities and autism, this legislation acknowledges the Department's newly codified rate setting system and alternatively directs DHHS to conduct rate studies for MaineCare Sections 21 & 29 Agency Home Support and Community Support services, as soon as possible, in calendar year 2024, with new rates implemented by January 31, 2025.

It also directs OADS to convene a work group to advise on the development of a daily rate payment system for agency home support service providers to replace the complex and limiting billing for the 24/7 residential support services currently available to Mainecare Members with Intellectual Disabilities and Autism. The current rate system is complicated, confusing, non-transparent, and an administrative burden for providers, Mainecare and the Department. While the regulations are clear for how to calculate the average billing method per Agency Home Support location; there is significant variability from day-to-day and week-to-week. This variability depending upon the number of individuals living in the home, paired with unstable staffing, results in excessive administrative time to calculate the rate and submit bills to Mainecare.

A proposed amendment requires the Department to maintain current staffing flexibility enacted during the pandemic and set to expire November 11, 2023 as a bridge until the rate studies and subsequent rate changes can be implemented.

Residential Services - Group Home Rate History

- MACSP members provide 24/7 supportive care to more than 1500 Mainers living in an estimated 650, 2–6-person Group Homes in communities throughout the state. Also known as Section 21 Agency Home Support, this service has not had an adopted rate study in well over a decade.
- The Department did provide a long overdue increase in July of 2021 to the Group Home rate and then again in January of 2022 as part of the AAAA 125% legislative initiative. Providers welcomed the increase as the labor components of this rate had been nearly \$1.00 below minimum wage at \$11.22.
- In July of 2021, however, ahead of the required 125% minimum wage increase in January of 2022, the Department adopted a new rate model for group home support, *without public notice and stakeholder input*, that cut the percentage of the rate for program costs by 40%. While the new rate now technically reflects labor costs of 125% of minimum wage, the rate does not support the program costs, leaving providers with a shortfall of more than \$2 an hour.
- A unanimously supported HHS Committee amendment was passed last year to restore the shortfall to the rate in the budget, but it was not passed, leaving providers behind.
- A recent MACSP survey estimates an additional twenty homes will close in the next six months. A sample of 34 group home providers indicates that to staff their group homes without the use of overtime would require an additional 521 full time staff per week.

Community Support Services Rate History

- Section 21 and 29 Community Supports Services provide an essential service and link to the community for people with intellectual disabilities and autism, providing a path to meaningful community engagement, employment, and life skill development.
- With the implementation of the state's Home and Community-Based Service (HCBS) Settings Rule, Providers have undertaken extensive administrative and documentation requirements to meet Community-Based Service (HCBS) expectations. While the current rate methodology includes some documentation time, the quantity and quality of documentation has grown without a corresponding adjustment to the rate methodology.
- Additionally, recent rate and structural changes implemented by the Department did not include IDD stakeholder input or follow the principles established by the State's new codified rate setting system. The resulting changes decreased flexibility for individuals receiving services by implementing a three-tier rate system that penalizes facility-based services yet is inadequate to support community-only supports. It also changed the staff to member ratio of requiring a '3:1 at all times' resulting in requiring providers to limit services when that ratio cannot be achieved on a moment-to-moment basis. An Appendix K provision, allowing flexibility on the ratio will expire in November.
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