



**Testimony of Angela Westhoff, President & CEO
Maine Health Care Association**

Testimony before the Committee on Appropriations and Financial Affairs Committee

Change Package for

LD 2214, An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government, General Fund and Other Funds and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2024 and June 30, 2025

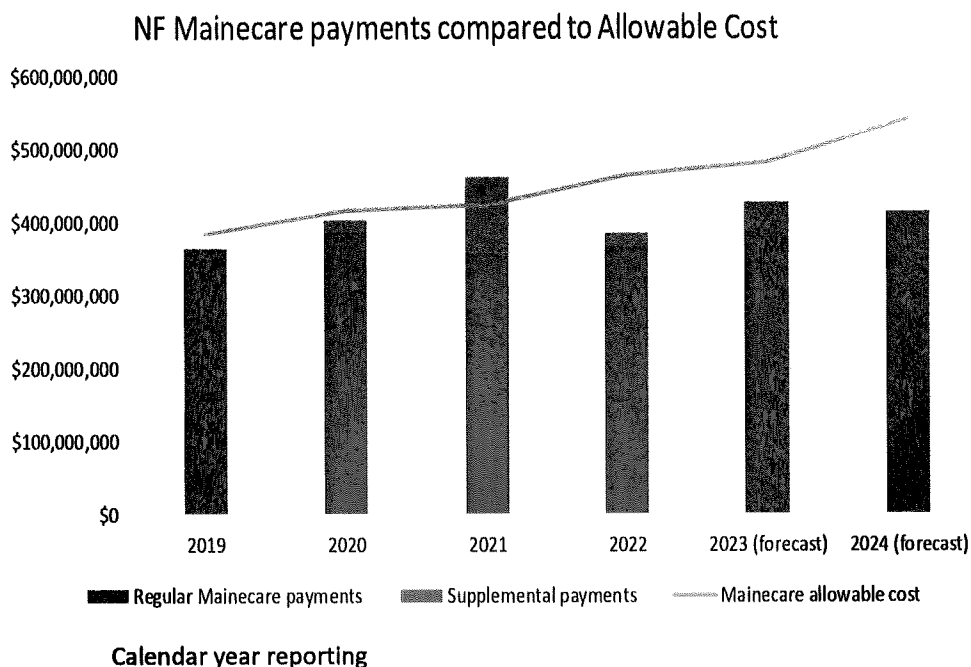
Public Hearing: Monday, April 1, 2024 at 1:00 PM

Senator Rotundo, Representative Sachs, and distinguished members of the Committee on Appropriations and Financial Affairs and the Committee, my name is Angela Westhoff and I serve as the President & CEO of the Maine Health Care Association. We represent approximately 200 nursing homes, assisted living centers, and residential care facilities (also known as Private Non-Medical Institutions or PNMIs) across the state. Our mission is to empower members to ensure the integrity, quality, and sustainability of long term care in Maine.

In response to the Budget Change Package issued on Friday, March 29th, 2024, I am testifying neither for nor against the nursing home provisions included. I want to thank the administration for recognizing the serious crisis Maine is facing. In light of the escalating rate of long term care facility closures and conversions, it is encouraging to see additional supports being proposed for nursing facility rate reform.

The funding included in the change package is designed to create a temporary Nursing Facility Rate Reform Transition Fund. The \$23.2 million general funds proposed in the change package is a great start to address the significant \$96.5 million dollar shortfall as demonstrated in the 2022 cost reports. In reviewing change package language part SSS, however, it appears this amount is meant to spread out over several years and with federal match, will be used as temporary measures for "time-limited payment policies to incentivize and reward facilities or

adjust risk mitigation parameters.” We are unclear on how this would increase MaineCare rates overall to meet the cost of providing skilled nursing facility care. We know the shortfall between MaineCare rates and the allowable costs of care continues to grow as depicted below:



**Supplemental payments received in 2021 are cost-settled and could be used to cover costs in 2021 and 2022.*

As proposed, the change package allocation establishes a transition fund that doesn’t infuse resources into new rates, but instead provides funds for DHHS’ discretionary use during the rate transition. This is temporary and unpredictable funding, and it does not fully solve the fundamental issue of MaineCare (Medicaid) rates being insufficient to cover the cost of providing care. In addition, the fund is set to expire either when it runs out of money, which could be well before rate reform fully transitions, or December 31, 2027, whichever occurs sooner. Although this funding and new account is a good start, the inherent uncertainty of the design will likely not be enough to turn around Maine’s closure crisis.

As drafted, the change package funding can only begin to be used somewhere between January 1, 2025 to June 30, 2025 (see Sec SSS-2). That’s at least nine months away. We have lost three nursing homes in the last three months and providers are struggling. Some banks are no longer lending to nursing homes because their revenue streams depend too heavily on one-

time revenue that is not dependable. We are concerned that this transition fund will not provide enough economic stability to reinstall lenders faith in loaning funding, and it will not be in effect quick enough to stop the cascade of closures happening now.

There have been 25 nursing home closures since 2014 and 11 just since 2020. Facilities are closing at an alarming rate as Maine's population ages, and a significant baby boomer population is nearing the age at which they will need long term care supports and services. Maine already has the fewest beds per capita in the entire Northeastern United States.

Attached to my testimony is a **suggested amendment to the change package proposal language part SSS**. This amendment does the following:

- Eliminates the December 31, 2027 sunset provision and thereby allows the Department a longer time frame and greater flexibility to use this account as needed.
- Requires at least 75% of the transition fund to be used in the first year to ensure as smooth as possible of a transition during the beginning of this significant adjustment to new rates.
- Creates a hold harmless provision to ensure that revised rates do not drop below the current rates, adjusted for inflation, to provide some baseline level for predictability.
- Requires this account to be funded at the start of 2025, when rate reform goes into effect, versus up to six months later (June 30, 2025), which is more than a year from now.

Further, we are also requesting a change in the Supplemental Budget language in Part UU [\$29 million per PL 2023, chapter 412]. Facilities that are on the brink of closure need this allocation of funding to go out the door this summer as they try to make it through until rate reform. To that end, **we ask the legislature to amend language in Part UU of the Supplemental Budget to distribute the already budgeted \$29 million immediately and fully at the start of the 2024-2025 fiscal year**. The proposed amendment language is attached to my testimony. We believe this is the best compromise to provide some immediate relief to facilities without an additional budgetary impact.

Lastly, residential care rate reform is scheduled to begin in July 2025. There are **zero funds** in either the Supplemental Budget or the Change Package to address residential care facilities also known as Private Non-Medical Institutions (PNMIs) rate reform. The Department indicates that their rate reform is scheduled for July 2025. There was some previous funding in for PNMI-Cs in the form of a high MaineCare utilization add-on payment that was “a bridge to broader payment reform that will go into effect on January 1, 2025.” We know that PNMI-C rate reform is already delayed for 6 months and could be longer. We are concerned that there will not be adequate resources to address this rate reform process or to bridge providers through until new rates take effect.

Thank you for your time. I'd be happy to answer any questions you have.

2024 Supplemental Budget Change Package Language Section SSS Amendment

Amend LD 2214 by adding the following Part:

Part SSS

Sec. SSS-1. Nursing Facility Reform Transition Fund:

The Nursing Facility Reform Transition Fund is established as a Nursing Facilities Other Special Revenue Funds account for the sole purpose of funding components of nursing facility rates starting on January 1, 2025 that assist in transitioning toward the fully implemented rates under ~~MaineCare's~~ comprehensive rate reform system by calendar year 2028. This could include, but is not limited to, time-limited payment policies to all eligible facilities to reward quality or achieve permanent staffing targets, or to adjust the risk mitigation parameters. This funding is intended to support retention and recruitment of facility staff, particularly direct care staff, and facilitate the reduction of the use of contract or "travel" staff and may be used for special workforce initiatives designed to meet this goal. ~~The fund shall sunset when funding is fully expended or on December 31, 2027, whichever is sooner.~~

Sec. SSS-2. Requirements Nursing Facility Reform Transition Fund:

At least 75% of the funds within the Nursing Facility Reform Transition Fund shall be distributed to Nursing Facilities on or before January 1, 2026.

Sec. SSS-3. Hold Harmless Provision:

The Nursing Facility Reform Transition Fund must be utilized to ensure that individual Nursing Facility rates do not decrease below the latest rate set prior to the implementation of rate reform, adjusted for inflation as calculated by the CPI-W Northeast.

Sec. SSS-42. Transfer from the General Fund unappropriated surplus; Nursing Facilities.

Notwithstanding any provision of law to the contrary, on or before ~~June 30~~ January 1, 2025, the State Controller shall transfer \$23,247,780 from the unappropriated surplus of the General Fund to the Department of Health and Human Services, Nursing Facilities program, Other Special Revenue Funds account for the purpose of funding components of nursing facility rates. ~~As of December 31, 2027, any unobligated amounts remaining from this transfer must be transferred to the unappropriated surplus of the General Fund.~~

PART SSS

SUMMARY

This Part establishes a Nursing Facilities, Other Special Revenue Funds account for the purpose of funding components of nursing facilities rates starting January 1, 2025 that assist in transitioning

toward the fully implemented rates under ~~MaineCare's~~ comprehensive rate reform system by calendar year 2028. This Part also includes a transfer from the unappropriated surplus of the General Fund to provide funding for this purpose.

PART UU

Sec. UU-1. Nursing Facility payments in fiscal year 2024-25.

Funds appropriated or allocated in PL 2023, c. 412 to support investment and rate reform for fiscal year 2024-25 ~~may be distributed in two phases~~ will be distributed as a one-time payment to Nursing Facilities upon the effective date of this budget. The aforesaid fund amount shall be incorporated into the base Nursing Facility MaineCare rate reform rate effective July 1, 2025. ~~The first phase may take effect July 1, 2024 and allocate up to half of the funds to make one-time payments that align with rate reform. The remaining funds may be applied to reformed rates that take effect on January 1, 2025.~~

PART UU

SUMMARY

This Part outlines the distribution of funding approved in PL 2023, c. 412 to support nursing facilities, investment and rate reform for fiscal year 2024-25. ~~Half of the funds may take effect July 1, 2024 and the remaining funds may be applied to reformed rates that take effect on January 1, 2025.~~