

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: April 14, 2021
To: Joint Standing Committee on Health & Human Services
From: Anna Broome, Legislative Analyst

LD 958 Resolve, Directing the Department of Health and Human Services To Conduct a Review of Rules Governing In-home Personal Care Assistance Services

SUMMARY: This resolve requires DHHS to review rules that relate to direct care services provided in the home to assist individuals with the activities of daily living and the instrumental activities of daily living. The review must include, but is not limited to, MaineCare sections 12, 18, 19, 20, 21, 29, 40, and 96, OADS section 63 and chapter 11, and Chapters 119 (home health care) and 129 (personal care support). The review must examine how entities providing direct care services to affected individuals provide information, such as advance notice of staff absences, termination of services and training requirements, and ensure supervision and quality care and protection of vulnerable people receiving care. The department is required to submit its findings and recommendations to the Joint Standing Committee on Health and Human Services no later than January 1, 2023.

ISSUES FROM TESTIMONY:

- Narrow the scope of sections in the bill to be reviewed? Specific concerns to be reviewed?
- Concern about independent contractors under Sec. 29 (PCA), independent caregivers, lack of national background checks, waivers, drug use, lack of training, lack of supervision in home care vs facilities, how to prosecute with Alzheimer's patients.
- LTCOP: different eligibility and requirements with corresponding provider agency expectations. Receive complaints about personal care agencies from consumers and families.
- MCOA: amend to require reporting of number of unstaffed and partially unstaffed members, number of members experiencing staff absences, staffing changes, and termination of services.
- DHHS: EVV in effect as of 1/1/21 – will provide some insight into some of the concerns in the bill such as timeliness of scheduled visits.

ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:

- Number of complaints (LTCOP and OADS)?
 - From Trish Thorsen at LTCOP:

“Over the past 12 months, April to April, we have had 14 complaints related to personal care agencies terminating services without advance notice, inadequate training of caregivers and conduct issues with caregivers. The licensed home care agencies are required to inform consumers about LTCOP at the start of services but personal care agencies that are just registered as an agency with the state, are not required to inform consumer about LTCOP and this impacts the number of complaints we receive.”
- Number of direct care workers receiving an exemption or waiver after a background check? Who is not required to have a background check?
- Oversight requirements for MaineCare, OADS, PCA and Home Health and private? Is there any oversight for private contractors?
- Update on streamlining training requirements for direct care workers and PSS curriculum (from 129th letter).
- OADS vision for oversight? Update on national databank? Global waiver idea – different expectations – LTCOP testimony – would this change?

FISCAL IMPACT:

OFPR preliminary fiscal impact statement: DHHS will require GF appropriations of \$86,544 in FY 2021-22 and \$53,954 in FY 2022-23 for one limited period Comprehensive Health Planner II position to perform the review of the MaineCare rules and for an adjustment to an existing contract within DHHS, OAD, to complete the review of the rules in the OADS policy manual. Also an FMAP match for the MaineCare side.