

## OFFICE OF POLICY AND LEGAL ANALYSIS

Date: May 5, 2021  
To: Joint Standing Committee on Health & Human Services  
From: Anna Broome, Legislative Analyst

### **LD 499 An Act To Eliminate the Waiting Lists for Older and Disabled Residents Who Are Eligible To Receive Home-based Care**

**SUMMARY:** This bill provides funding to eliminate the waiting lists for services provided under Department of Health and Human Services rule Chapter 10-149: Office of Aging and Disability Services, Chapter 5, Office of Aging and Disability Services Policy Manual, *Section 63*, In-Home and Community Support Services for Elderly and Other Adults and for services provided under Chapter 14-197: Office of Aging and Disability Services, *Chapter 11*, Consumer Directed Personal Assistance Services. (State-funded programs)

### **LD 962 An Act To Appropriate Funds To Eliminate Waiting Lists for Home and Community-based Services for Adults with Intellectual Disabilities, Autism, Brain Injury and other Related Conditions**

**SUMMARY:** This bill provides funding to provide services to individuals with brain injury, other related conditions, developmental disabilities or autism spectrum disorder on the waiting list for community-based services provided under the MaineCare Benefits Manual, Chapters II and III, *Section 21*, Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder, *Section 29*, Support Services for Adults with Intellectual Disabilities or Autism Spectrum Disorder, *Section 18*, Home and Community-Based Services for Adults with Brain Injury and *Section 20*, Home and Community-Based Services for Adults with Other Related Conditions.

### **LD 1360 An Act To Provide Services to Maine's Most Vulnerable Citizens by Eliminating the Waiting Lists for Certain MaineCare Services**

**SUMMARY:** This bill provides funding to clear the MaineCare *Section 29* waiting list through the end of fiscal year 2021 and to reduce waiting lists for MaineCare *Section 21* services by providing services to those individuals who are designated Priority 2 but are receiving no other MaineCare home and community-based or support services.

## **ISSUES FROM TESTIMONY:**

- American Rescue Plan includes HCB services and FMAP increases that can be leveraged immediately.
- Need to be combined with rate increases; already approved hours that cannot be filled.
- Many individuals qualify for a nursing facility-level of care so without HCB services, can end up in a NF or rolling the dice with respect to safety.
- Request for increase in the cap for Sec. 29 hours (as in LD 1984 last year proposed an increase in the cap from \$58,000 to \$70,000).
- Receive services when school age and then regress while on waitlists for waiver services.
- Governor's biennial budget includes funding to support 30 additional individuals per month in the Sec. 29 waiver program for a total of 720 individuals over the biennium. Capacity of the service delivery system lacking in Secs. 18 and 20, DHHS recently introduced a self-directed option under App K. Also rate increases in the biennial budget. DHHS has launched a reform process with stakeholders to promote innovation and expand choices and has proposed new Sec. 29 waiver opportunities. Need to ensure quality. Closures of group homes during the pandemic – need to restore capacity. Unlikely to be able to expand this rapidly.

**Current waitlists** in each program and number of people currently receiving services:

Sec. 63 (GF program): April 16, 2021: 916 on the waitlist. (>1,000 for 63 and c. 11 together) (Similar number on the program now.) (No waitlists for MaineCare HCB programs Secs 19, 96, 12, 40)

Secs 18, 20, 21 and 29 – January 1, 2021: 2,111 (1864 of those people on Sec. 21 waiting lists.) 2/10 – 234 on Sec. 29 waitlist.

## **FISCAL IMPACT:**

LD 499: more current estimate would decrease the FY21-22 GF by \$2,168,623 to \$11,331,377 and increase the FY22-23 GF appropriation by \$16,025,711 to \$29,525,711. Also, all the funding should be in the 0420 Long Term Care – OADS account (different account in the bill for ch. 11).

LD 962: more current estimate would decrease the FY21-22 GF by \$5,455,309 to \$11,159,338 and the FY22-23 GF by \$7,099,562 to \$32,988,067. This change also accounts for DHHS requiring 8 additional positions to handle the

influx of members to the waiver programs. It should also be noted that the federal ARP allows for a potential temporary FMAP increase for states that “enhance, expand or strengthen home and community-based services.” There is no federal guidance outlining the specific changes that will allow for a state to receive this enhanced FMAP or exactly how states will apply to get the enhanced FMAP. However, if this bill is enacted and the State is allowed to receive the enhanced FMAP for the members removed from the waiting list, the State could reduce the GF appropriation in FY21-22 only by an additional \$2,000,000.

<b>LD</b>	<b>499</b>	<b>962</b>	<b>1360</b>
Secs of MaineCare or state-funded	63 and ch. 11 (state-funded)	Secs 18, 20, 21, 29	Secs. 21 and 29
	Clear waitlists	Clear waitlists	Clear Sec. 29 to end of FY21; Sec. 21 priority 2 with no services.