

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: May 13, 2021
To: Joint Standing Committee on Health & Human Services
From: Anna Broome, Legislative Analyst

LD 1649, An Act To Make the Shared Living Program Accessible for Persons with Intellectual Disabilities or Autism

SUMMARY: This bill authorizes payment from the DHHS community-based services contingency fund for home accessibility adaptations to shared living residences. It also requires DHHS to convene a working group to evaluate whether to modify the shared living program for persons with intellectual disabilities or autism to provide different stipend rates to shared living providers based on the needs of the persons served. It defines a shared living residence as a residence in which services are provided to an individual with an intellectual disability or autism by an individual with whom the person shares the residence and who has entered into a contract with the department to provide services.

ISSUES FROM TESTIMONY:

- Sponsor: LD 1944 from last year was similar; the constituent has now moved after the shared living house was sold. That property had been modified with the shower to allow for his needs. Now unable to get a modification in a new sharing living arrangement. The bill is to change the rules to allow for home modifications in shared living residences regardless of who owns the home.
- DRM: Rates to shared living providers do not vary based on needs of the individual being served. Current law and rule allows for modifications only for homes owned by the individual and not by the shared living provider.
- DHHS: Reimbursement measures are already in place for home accessibility adaptations. DHHS contracts with a MaineCare provider who provides the oversight to independent contracted shared living providers. “Shared living residence” definition in the bill does not reflect that the department does not directly reimburse shared living providers. Funding for modifications could be provided in the administrative costs that the oversight provider receives for an individual.

DRAFTING ISSUES:

- DHHS concern about the language in lines 5-6 – department doesn't contract with the shared living providers.

ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:

From Paul Saucier, Director of OADS:

- Information about the contingency fund.

“Permanent modifications to a home not owned by a member or member’s family is not reimbursable under federal Medicaid rules. However, we do have state funds that we can expend on unusual needs like this. We do not support doing so as policy because accessibility is the responsibility of the oversight agency. However, in the specific situation, we will continue to work with the member on a pilot basis as we explore the feasibility of applying the shared living model to individuals with needs such as the member’s, and to that end, we are willing to share the cost of reasonable modifications with a provider. Alternatively, we have and will continue to identify other options for the member, such as an accessible section 811 apartment with services.”

- Did the provider who received funding for the home modification have to return the funding and what happened to that funding?

“A deposit for the work had been made but not spent, and they were returned to the Department. They could be used for this purpose again. The issue is not funding, but rather policy. As we noted in our testimony, the oversight agency is responsible for ensuring accessibility among its shared living contractors.”

FISCAL IMPACT:

Not yet received from OFPR.

Sections 2-6 amending Title 34-B, §§5437-8:

§5437. Contingency fund

The department shall establish a contingency fund for use by community-based intermediate care facilities for persons with intellectual disabilities or autism and department clients residing in licensed boarding and foster homes or intermediate care facilities or participating in appropriate day treatment programs. This fund must be used in accordance with the following provisions.

1. Approval of disbursements. Disbursements must be approved by the commissioner or the commissioner's designee.

2. List of approved usages. The commissioner or the commissioner's designee and representatives of community-based facilities shall develop a list of approved usages of contingency funds.

3. Approved usages; including. Approved usages of contingency funds include, but are not limited to, the following:

- A. Payment for special client assessment and treatment services not reimbursed through the principles of reimbursement for intermediate care facilities for persons with intellectual disabilities or autism;
- B. Payment for special client needs, such as eyeglasses and wheelchairs and nonreimbursable medications; or
- C. Payment for special staff needs to ensure appropriate client treatment.

4. Disbursement not to be approved. A disbursement for client needs may not be approved for any service or activity not recommended by a planning team or necessary to comply with regulations. A disbursement may not be made unless evidence is provided that the expense is not reimbursable by the Medicaid Program. It is the intent of the Legislature that the contingency fund established in this section be the funding source of last resort.

§5438. Services for adults with diagnoses of intellectual disabilities or other developmental disabilities

To the extent possible using available resources, the department shall provide adults with diagnoses of intellectual disabilities and other developmental disabilities choices from among an array of supports and services, including but not limited to: employment supports, personal supports, day programs and residential services. The department shall pursue appropriate resources for the supports and services needed by adults covered under this chapter.