

Janet T. Mills  
Governor

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Commissioner



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January 28, 2020

Senator Gratwick, Chair  
Representative Hymanson, Chair  
Members, Joint Standing Committee on Health and Human Services  
100 State House Station  
Augusta, ME 04333-0100

Re: LD 1936 – *An Act To Allow Parents of Minors Who Qualify for In-home Personal Care under the MaineCare Program To Be Employed as Caregivers for Those Minors*

Senator Gratwick, Rep Hymanson, and Members of the Joint Standing Committee on Health and Human Services:

This letter is to share our concern related to LD 1936 – *An Act To Allow Parents of Minors Who Qualify for In-home Personal Care under the MaineCare Program To Be Employed as Caregivers for Those Minors*.

Parents are not allowed, under federal regulations, to be reimbursed for personal care for their children. The federal Code of Federal Regulations (Section 440.167) states (emphasis added):

(a) **Personal care services** means services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or institution for mental disease that are -

(1) Authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State;

(2) **Provided by an individual who is qualified to provide such services and who is not a member of the individual's family;** and

(3) Furnished in a home, and at the State's option, in another location.

(b) For purposes of this section, *family member* means a legally responsible relative.

The State would not be able to reimburse parents who provide personal care services to their children through the MaineCare program unless the federal government granted a waiver. Without a waiver, the State would not be able to receive federally matching funds and would be funding the service with 100% state funds. The Department understands the need for personal care services, however we believe the federal waiver would be difficult to obtain. Additionally, we are concerned that having a parent as the owner of an agency that is delivering services to parent's child, or being the provider of services to their own child, is a system that creates an inherent conflict of interest.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle Probert".

Michelle Probert  
Director, MaineCare Services