

# DISABILITY RIGHTS MAINE

February 7, 2019

Senator Geoff Gratwick, Chair  
Representative Patricia Hymanson, Chair  
Joint Standing Committee on Health and Human Services  
Cross Office Building, Room 209  
Augusta, Maine 04333

**Re: L.D. 84 Resolve, Directing the Department of Health and Human Services To Allow Spouses To Provide Home and Community-based Services to Eligible MaineCare Members**

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

Thank you for the opportunity for Disability Rights Maine (DRM) to provide testimony in support of this legislation.

Consistent with federal regulation, Maine does not allow spouses and other family members, of MaineCare recipients to be paid for providing personal care services to recipients. The Federal regulation does, however, allow states to permit family members, including spouses, to be paid for providing personal care services to MaineCare members who receive waiver services. <sup>1</sup> (Attached)

This bill would direct the Maine Department of Health and Human Services to seek approval from the Centers for Medicare and Medicaid Services (CMS) to amend the Section 19 waiver to allow spouses to be employed as personal support specialists and provide extraordinary care and services that the spouse would not normally be expected to provide. The waiver request must identify the services that the spouse would be paid to provide. If approved, DHHS would then be directed to amend the Section 19 waiver rules to allow spouses to be paid and to study allowing spouses to be paid under other MaineCare programs.

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<sup>1</sup> 42 C.F.R. §440.167

This Committee is well aware there is a staffing crisis for individuals with disabilities who receive waiver services. Individuals who receive waiver services frequently have difficulties finding staff sufficient to meet their needs, particularly in rural areas. As a result, they receive often only a fraction of the care they are eligible for, or they go without services. In either case, they are at risk for institutionalization.

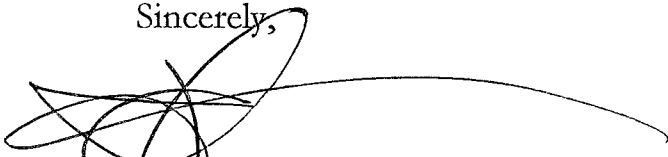
Some individuals may be fortunate enough to have family members who can step in and provide needed care, and do so without compensation. Unfortunately, this also means that families may face economic hardship because of their limited ability to maintain employment outside of the home.

By allowing spouses to be paid, this bill takes steps to address Maine's staffing shortage and increase the ability of people with disabilities to remain in their homes. It also provides some economic relief for families who must choose between caring for a loved one and holding a job. And while the Federal regulation only addresses family members of individuals who receive waiver services, we believe it is step in the right direction.

DRM urges the Committee to vote Ought to Pass on L.D. 84.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Peter M. Rice, Esq.  
Legal Director  
Disability Rights Maine

Code of Federal Regulations  
Title 42. Public Health  
Chapter IV. Centers for Medicare & Medicaid Services, Department of Health and Human Services (Refs & Annos)  
Subchapter C. Medical Assistance Programs  
Part 440. Services: General Provisions (Refs & Annos)  
Subpart A. Definitions

42 C.F.R. § 440.167

§ 440.167 Personal care services.

Effective: July 16, 2012  
Currentness

Unless defined differently by a State agency for purposes of a waiver granted under part 441, subpart G of this chapter—

(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.

**Credits**

[62 FR 47902, Sept. 11, 1997; 62 FR 49726, Sept. 23, 1997]

**AUTHORITY:** Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Notes of Decisions (1)

Current through January 31, 2019; 84 FR 957.