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**Public Law**  
124th Legislature  
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**Chapter 430**  
**H.P. 803 - L.D. 1164**

**An Act To Amend the Maine Certificate of Need Act of  
2002 To Change Nursing Facilities Review Thresholds for  
Energy Efficiency Projects and for Replacement Equipment**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 22 MRSA §329, sub-§6,** as enacted by PL 2001, c. 664, §2, is repealed and the following enacted in its place:

**6. Nursing facilities.** The obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of \$510,000 or more and, beginning January 1, 2010, the obligation by a nursing facility, when related to nursing services provided by the nursing facility, of any capital expenditures of \$1,000,000 or more.

A certificate of need is not required for the following:

- A. A nursing facility converting beds used for the provision of nursing services to beds to be used for the provision of residential care services. If such a conversion occurs, MaineCare and other public funds may not be obligated for payment of services provided in the converted beds unless approved by the department pursuant to the provisions of sections 333-A and 334-A;
- B. Capital expenditures in the case of a natural disaster, major accident or equipment failure;
- C. Replacement equipment, other than major medical equipment as defined in section 328, subsection 16;
- D. Information systems, communication systems, parking lots and garages; and
- E. Certain energy-efficient improvements, as described in section 334-A, subsection 4.

**Sec. 2. 22 MRSA §334-A, sub-§3, ¶A,** as enacted by PL 2007, c. 440, §13, is amended to read:

- A. Allow gross square footage per licensed bed of not less than 500 square feet unless the applicant specifies a smaller allowance for the project; and

**Sec. 3. 22 MRSA §334-A, sub-§3, ¶B,** as enacted by PL 2007, c. 440, §13, is amended to read:

B. Exclude the projected incremental cost associated with replacement of equipment: ; and

**Sec. 4. 22 MRSA §334-A, sub-§3, ¶C** is enacted to read:

C. Exclude the incremental cost of energy-efficient improvements as defined in the rules governing MaineCare reimbursement for nursing facilities.

**Sec. 5. 22 MRSA §334-A, sub-§4** is enacted to read:

**4. Cost associated with energy-efficient improvements.** The cost associated with energy-efficient improvements in nursing facilities, as set forth in rules governing special reimbursement provisions for energy-efficient improvements adopted by the department, must be excluded from the cost of a project in determining whether the project is subject to review.

**Sec. 6. Cost associated with energy-efficient improvements.** For purposes of the Maine Revised Statutes, Title 22, section 334-A, subsection 4, the rules governing special reimbursement provisions for energy-efficient improvements are set forth in the Department of Health and Human Services MaineCare Benefits Manual, Chapter III, Section 67, subsection 44.2.4. The rules must be amended and take effect no later than January 1, 2010. The rules must require that the department provide a response to provider requests for prior approval of energy-efficient improvements within 30 days following the receipt of a request supported by sufficient information. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Effective September 12, 2009