

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

S.P. 588 - L.D. 1758

**An Act To Clarify and Amend MaineCare Reimbursement Provisions for
Nursing and Residential Care Facilities**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate until after the beginning of the next fiscal year; and

Whereas, certain expenditures and modifications of policy set forth in this legislation affect obligations and expenses incident to the operation of state departments and institutions during the course of the current fiscal year and require immediate attention; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. PL 2017, c. 460, Pt. B, §3, sub-§1 is amended to read:

1. Special wage allowance for fiscal year 2018-19 and subsequent fiscal years. For the state fiscal year ending June 30, 2019, a special supplemental allowance must be made to provide for increases in wages and wage-related benefits in both the direct care cost component and routine care cost component as follows. An amount equal to 10% of allowable wages and associated benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2016 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement. This supplemental allowance must also be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in that fiscal year. The supplemental allowance for the state fiscal year ending June 30, 2019 provided pursuant to this subsection must

continue in each successive fiscal year until the fiscal year in which the rebasing under the Maine Revised Statutes, Title 22, section 1708, subsection 3, paragraph F is based on 2019 as-filed cost report data and has incorporated the costs of wages and allowable benefits and taxes of a facility.

Sec. 2. PL 2017, c. 460, Pt. B, §3, sub-§§1-A and 1-B are enacted to read:

1-A. Additional special wage allowance for fiscal year 2019-20 and subsequent fiscal years. For the state fiscal year ending June 30, 2020, an additional special supplemental allowance must be made to provide for increases in contract labor, wages and allowable benefits and taxes in both the direct care component and routine care component as follows. An amount equal to 10% of allowable contract labor, wages and allowable benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2017 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement to the contrary. This additional supplemental allowance must be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in that fiscal year. The additional supplemental allowance for fiscal years ending in calendar year 2020 must be paid in each successive state fiscal year until the fiscal year in which a rebasing under the Maine Revised Statutes, Title 22, section 1708, subsection 3, paragraph F is based on 2020 as-filed cost report data and has incorporated the costs of contract labor, wages and allowable benefits and taxes of a facility. For the purposes of this subsection, "contract labor" includes nursing, housekeeping, dietary, laundry and related services.

1-B. No limitation. The increases in reimbursement rates that result from implementation of this Act are not limited to only wage and wage-related costs.

Sec. 3. PL 2017, c. 460, Pt. B, §4, sub-§1 is amended to read:

1. Special wage allowance for fiscal year 2018-19 and subsequent fiscal years. For the state fiscal year ending June 30, 2019, a special supplemental allowance must be made to provide for increases in wages and wage-related benefits in the direct care, personal care services and routine cost components as follows. An amount equal to 10% of wages and associated benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2016 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement. This supplemental allowance must also be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in each component that is cost settled in that fiscal year. The supplemental allowance for the state fiscal year ending in June 30, 2019 provided pursuant to this subsection must continue in each successive fiscal year until the fiscal year in which the rebased rates have incorporated the costs of wages and allowable benefits and taxes that were reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2019.

Sec. 4. PL 2017, c. 460, Pt. B, §4, sub-§§1-A and 1-B are enacted to read:

1-A. Additional special wage allowance for fiscal year 2019-20 and subsequent fiscal years. For the state fiscal year ending June 30, 2020, an additional special supplemental allowance must be made to provide for increases in contract labor, wages and allowable benefits and taxes in the direct care, personal care services and routine care cost components as follows. An amount equal to 10% of allowable contract labor, wages and allowable benefits and taxes as reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2017 must be added to the cost per resident day in calculating each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement to the contrary. The additional supplemental allowance must be allowed and paid at final audit to the full extent that it does not cause reimbursement to exceed the facility's allowable costs in that fiscal year. The supplemental allowance must be paid in each fiscal year after state fiscal year 2019-20 until the fiscal year in which rates have been rebased using 2020 or a later calendar year as a base year and the rebased rates have incorporated the costs of contract labor, wages and allowable benefits and taxes that were reported on each facility's as-filed cost report for its fiscal year ending in calendar year 2020. For purposes of this subsection, "contract labor" includes nursing, housekeeping, dietary, laundry and related services.

1-B. No limitation. The increases in reimbursement rates that result from implementation of this Act are not limited to only wage and wage-related costs.

Sec. 5. Rulemaking. The Department of Health and Human Services shall amend its rule in 10-144 C.M.R. Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities and Section 97, Appendix C, Principles of Reimbursement for Medical and Remedial Service Facilities to determine, of the funds provided in section 6, the proportional amount to be distributed to each provider based on sections 1 to 4 of this Act.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Medical Care - Payments to Providers 0147

Initiative: Provides one-time appropriations and allocations for residential care facility wage allowances.

GENERAL FUND	2019-20	2020-21
All Other	\$142,896	\$187,720
GENERAL FUND TOTAL	\$142,896	\$187,720
FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$251,844	\$330,844

FEDERAL EXPENDITURES FUND TOTAL	\$251,844	\$330,844
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Medical Care - Payments to Providers 0147

Initiative: Provides one-time appropriations and allocations for residential care facility supplemental wage allowance.

GENERAL FUND	2019-20	2020-21
All Other	\$1,361,537	\$1,361,537
GENERAL FUND TOTAL	<u>\$1,361,537</u>	<u>\$1,361,537</u>

FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$2,399,616	\$2,399,616
FEDERAL EXPENDITURES FUND TOTAL	<u>\$2,399,616</u>	<u>\$2,399,616</u>

Nursing Facilities 0148

Initiative: Provides one-time appropriations and allocations for nursing facility wage allowances.

GENERAL FUND	2019-20	2020-21
All Other	\$377,104	\$332,280
GENERAL FUND TOTAL	<u>\$377,104</u>	<u>\$332,280</u>

FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$664,620	\$585,621
FEDERAL EXPENDITURES FUND TOTAL	<u>\$664,620</u>	<u>\$585,621</u>

Nursing Facilities 0148

Initiative: Provides one-time appropriations and allocations for nursing facility supplemental wage allowance.

GENERAL FUND	2019-20	2020-21
All Other	\$3,637,102	\$3,637,102
GENERAL FUND TOTAL	<u>\$3,637,102</u>	<u>\$3,637,102</u>

FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$6,410,140	\$6,410,140
FEDERAL EXPENDITURES FUND TOTAL	\$6,410,140	\$6,410,140

Nursing Facilities 0148

Initiative: Provides one-time deappropriations and deallocations for funding carried forward in the baseline for the nursing facility supplemental wage allowance.

GENERAL FUND	2019-20	2020-21
All Other	(\$5,400,000)	(\$5,400,000)
GENERAL FUND TOTAL	(\$5,400,000)	(\$5,400,000)

FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	(\$9,517,127)	(\$9,517,127)
FEDERAL EXPENDITURES FUND TOTAL	(\$9,517,127)	(\$9,517,127)

PNMI Room and Board Z009

Initiative: Provides one-time appropriations and allocations for residential care facility supplemental wage allowance.

GENERAL FUND	2019-20	2020-21
All Other	\$401,361	\$401,361
GENERAL FUND TOTAL	\$401,361	\$401,361

HEALTH AND HUMAN SERVICES, DEPARTMENT OF DEPARTMENT TOTALS	2019-20	2020-21
GENERAL FUND	\$520,000	\$520,000
FEDERAL EXPENDITURES FUND	\$209,093	\$209,094
DEPARTMENT TOTAL - ALL FUNDS	\$729,093	\$729,094

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.