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Legislative Document

No. 52

H.P. 16

House of Representatives, January 8, 2025

**An Act to Require the Department of Health and Human Services to
Apply for Federal Benefits on Behalf of Children in the
Department's Custody Who May Be Eligible for Those Benefits**

(EMERGENCY)

Received by the Clerk of the House on January 6, 2025. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink, reading "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ROEDER of Bangor.

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

3 **Whereas,** certain federal benefits that children in the custody of the Department of
4 Health and Human Services may be eligible for have not been applied for by the
5 department; and

6 **Whereas,** those federal benefits can potentially change a child's life; and

7 **Whereas,** this legislation must take effect before the expiration of the 90-day period
8 so those federal benefits may be applied for as soon as possible; and

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

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

14 **Sec. 1. 22 MRSA §4069** is enacted to read:

15 **§4069. Department application for and administration of certain federal benefits**

16 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
17 following terms have the following meanings.

18 A. "Federal benefit" means a benefit administered by the United States Social Security
19 Administration under Title II of the United States Social Security Act or by the United
20 States Department of Veterans Affairs.

21 B. "Special-needs trust" has the same meaning as in Title 18-B, section 1212,
22 subsection 1, paragraph D.

23 **2. Determination of potential eligibility.** The department shall review whether a
24 child in the custody of the department may be eligible for a federal benefit. If the
25 department determines the child may be eligible for a federal benefit, the department shall
26 apply for the federal benefit on behalf of the child. The department shall notify the child,
27 the child's attorney or guardian ad litem and the child's parents or legal guardians of the
28 application for the federal benefit.

29 **3. Representative payee.** The department shall determine the representative payee to
30 receive the federal benefit of a child under subsection 2 in accordance with federal
31 regulations regarding appointment of representative payees. If the department is serving
32 as the representative payee, the department:

33 A. May not use the child's federal benefit to pay for or reimburse the department or
34 the State for any of the costs of the child's care;

35 B. May use the child's federal benefit for the child's unmet needs beyond what the
36 department is required to pay;

37 C. If appropriate, shall establish a special-needs trust to use and conserve the child's
38 federal benefit in a manner that is consistent with federal and state requirements for
39 special-needs trusts and in a manner that avoids federal and state asset and resource
40 limits;

D. Shall provide an annual accounting of the child's federal benefit to the child, the child's attorney or guardian ad litem and the child's parents or legal guardians; and

E. Shall periodically provide the child with financial literacy training and support, including information regarding the availability and use of funds conserved for the child in accordance with this section. The training must begin before the child attains 14 years of age or, if the child is not in the custody of the department before the child attains 14 years of age, as soon as practicable.

4. Training. The department shall provide financial training to department staff who implement this section and to all representative payees under subsection 3. The training must include information regarding fiduciary obligations of representative payees, ways to preserve federal benefit eligibility, ways to plan and budget for unmet current needs and foreseeable future needs of the child receiving the federal benefit and ways to ensure required accounting of the child's federal benefit is submitted to the United States Social Security Administration and the United States Department of Veterans Affairs.

5. Rules. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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

SUMMARY

This bill requires the Department of Health and Human Services to review whether a child in the custody of the department may be eligible for a benefit administered by the United States Social Security Administration or the United States Department of Veterans Affairs. If the department determines the child may be eligible for a federal benefit, the department is required to apply for the federal benefit on behalf of the child. It also requires the department to provide training to children receiving a federal benefit, department staff and representative payees who receive the federal benefit on behalf of a child.