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**Testimony of Jack Comart  
For Maine Equal Justice Partners**

**In Support of LD 488, "An Act to Improve Access to Home-based and Community-based Care in the MaineCare Program"**

Before the Joint Standing Committee on Health and Human Services

March 7, 2013

Good afternoon Senator Craven, Representative Farnsworth and members of the Joint Standing Committee on Health and Human Services. My name is Jack Comart and I work for Maine Equal Justice Partners. I am speaking today in support of LD 488, "An Act to Improve Access to Home-based and Community-based Care in the MaineCare Program." My testimony is on behalf of the Maine Association of Interdependent Neighborhoods (MAIN). MAIN is a statewide coalition working to improve economic security for people with low-incomes.

This bill is a relatively simple in concept: allow elderly and disabled people who have been found qualified by DHHS to live in a Nursing Facility, to instead live at home or in the community when the cost of living at home or in the community is less than the cost of living in a nursing facility. Despite this relatively simple concept, this problem has persisted for years. The failure to fix this problem results in people being unnecessarily institutionalized at greater cost than it would cost to serve them in their homes or in the community.

Over the years, I have tried to assist families who are facing this problem. Our MaineCare Home and Community Based Waiver programs for the elderly and the disabled have a built in bias toward institutional care. That bias is due to the fact that if your need for health care services exceeds the **average** annual cost of nursing home care, then this program does not work for you. In other words, only when your costs for home and

community based care are equal to or less than the **average**, does this program work for you. The result is that if your costs are higher than the **average**, but lower than what it would cost in a Nursing facility, then your option is to go into a nursing home where the nursing facility gets paid more than the average cost of Nursing Facility to provide care. This makes no sense. The current policy costs the State more and results in unnecessary institutionalization.

What this bill seeks is basic fairness. Provide care in the community, if: 1) the care is medically necessary; and 2) the home and community based care costs less than what the cost of care would be for that person if that person was in a nursing facility.

You may hear from the Department that they are aware of this issue, that they are working on combining two waiver programs, that during that process they will be looking at the caps on services, or that it is not simple to compare the costs in the home or community with the costs of providing care in the nursing facility. All true.

The Department may also say that some people in the community have family members (informal supports) who provide care and we should not substitute formal, paid care for what families can do. We agree. But, this program must recognize that families have their limits. We are not proposing substituting formal paid care for informal supports. But, when family care is not available or family care cannot bridge the gap, and it will be more expensive to serve that person (not the average person) in a Nursing Facility, then do what is fair , reasonable and cost-effective.

None of the issues that I anticipate the Department may raise, should stand in the way of passage of this bill. The bottom line is that passage of this bill will mean that after many years of talk, this problem will finally get fixed. Many of these families cannot wait another year or two while the Department merges waivers, etc. I don't want to have to tell more families that they need to put their loved ones into nursing homes even though that will cost the State more money than paying to serve them at home.

We hope that the Department shares the goals of this legislation. We look forward to working with them on this issue.