

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: February 18, 2021
To: Joint Standing Committee on Health & Human Services
From: Anna Broome, Legislative Analyst

LD 74 Resolve, To Ensure Appropriate Personal Needs Allowances for Persons Residing in Long-term Care Facilities (McCrea)

SUMMARY: This resolve directs DHHS to amend its MaineCare rules to provide for increases in the personal needs allowances of residents in nursing facilities from \$40 to \$70 per month and residential care facilities from \$70 to \$100 per month. (The personal needs allowance is in chapter 332 of the MaineCare Eligibility Manual.)

ISSUES FROM TESTIMONY:

- Sponsor testified he would be okay with changing the title of the bill to NFs.
 - LD 539 in the 129th (McCrea) was originally drafted the same as LD 74. The bill was amended to remove residential care facilities and the PNA for nursing facilities was amended to \$50 instead of \$70. Estimated fiscal note of that amendment was \$194,000 GF (draws down FMAP).
- PNA last increased in Maine in 1985. 2015 Kaiser study shows Maine's PNA is the lowest in NE (LTCOP).
- Discussion of whether a COLA should be included.
- Who is included in residential care? Group homes, e.g. ID population?
 - DHHS: Residential care and PNA refers to residents of App. C and F and does not include all PNMI group living arrangements (so does not include ID).

DRAFTING ISSUES:

- Amendments discussed at PH: Only NFs? COLA?

- Might want to specify Chapter 332 rule. NFs included in Part 14 “Medical institutions” and Part 12 is “Residential care.”
- PNA in the rules for residential care are determined for the individual and for a couple. Residential care is \$70/\$120; SSI is \$50/\$100. The bill states “persons residing in ...” and “residents” – is it clear this means an individual?
 - DHHS: The rules in residential care are drafted to include a PNA of \$50 plus a federal disregard of \$20 (the federal disregard is applied once per household). The federal disregard is not applied to income based on need (i.e. SSI). The way that the bill is written could increase the PNA for some residents by \$50 per month rather than \$30.
 - If the bill was drafted to say \$50 to \$80 that would still result in \$100 total disregard as intended and covers both individuals and couples. (The federal disregard would not change.)
- NFs – people on VA pensions or certain people in VA NFs have a \$130 PNA due to Section 1902(r)(1) of the Social Security Act which excludes \$90 of the VA pension as income + \$40 PNA. (Just an FYI.)

ADDITIONAL INFORMATION:

- Requirements for the PNA are in federal regulations – minimum amount of the PNA (\$30 since 1987) and limits what long term care facilities can require residents to pay for. Similar state regulations govern residential care limits. Any income from the resident above the PNA is applied to the cost of care by the long term care facility. Cost of care is the amount the resident contributes to their care of the facility. Increasing the PNA increases the amount of Medicaid required to pay for the resident’s care.

FISCAL IMPACT:

Not yet received from OFPR.