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Legislative Document

No. 967

H.P. 680

House of Representatives, March 9, 2017

**An Act To Ensure Access to Community Services for Persons with
Intellectual Disabilities or Autism**

(EMERGENCY)

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HERBIG of Belfast.
Cosponsored by Senator HAMPER of Oxford and
Representatives: CEBRA of Naples, FREY of Bangor, GATTINE of Westbrook, HARVELL
of Farmington, HYMANSON of York, MALABY of Hancock, Senator: LIBBY of
Androscoggin.

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,** the people of the State expect and need to ensure that high-quality care is
4 provided in community-based care settings for vulnerable persons with intellectual
5 disabilities or autism; and

6 **Whereas,** reimbursement rates paid for community-based services for persons with
7 intellectual disabilities or autism have been reduced by 12% relative to rates established
8 in 2007, while the federal Consumer Price Index medical care services index has
9 increased by 17% since 2007; and

10 **Whereas,** the capacity of community-based providers to serve persons with
11 intellectual disabilities or autism has been impaired by declining reimbursement rates and
12 increased costs beyond the control of those providers; and

13 **Whereas,** in order to provide high-quality care to persons with intellectual
14 disabilities or autism, the Legislature must take prompt action to correct chronic
15 underfunding and to ensure the continued viability of these providers; and

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

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

21 **Sec. 1. 22 MRSA §3195** is enacted to read:

22 **§3195. Compensation for care provided to persons with intellectual disabilities or**
23 **autism**

24 **1. Reimbursement.** The department shall reimburse services provided to
25 MaineCare member adults with intellectual disabilities or autism under a waiver granted
26 by the federal Centers for Medicare and Medicaid Services for home-based and
27 community-based care on the basis of rates and a methodology for application of the rates
28 that reflects assessment of individual need and applies criteria for resource allocation
29 established by the department pursuant to this section. This section applies to all funds,
30 including federal funds, paid by any agency of the State to a provider for care covered by
31 the waiver.

32 **2. Rulemaking.** The department shall adopt rules providing reimbursement rates
33 under this section that:

34 **A.** Take into account the costs of providing care and services in conformity with
35 applicable state and federal laws, rules, regulations and quality and safety standards;

36 **B.** Are sufficient to ensure that an adequate number of providers of services are
37 available to provide access to those services for all MaineCare members who require

1 them, including without limitation compliance with all federal standards with regard
2 to access to covered services under the Medicaid program;

3 C. Are based upon the costs and reimbursement levels under the methodology and
4 findings contained in a report by the department pursuant to Public Law 2005,
5 chapter 12, Part CCCC, section 1 and implemented in 2007, adjusted for the
6 cumulative increase in costs measured by the United States Department of Labor,
7 Bureau of Labor Statistics, Consumer Price Index medical care services index in each
8 year from 2007 to 2016;

9 D. Provide for and reflect, for each state fiscal year ending after 2016, an annual
10 inflation adjustment using a regional inflation factor established by a national
11 economic research organization; and

12 E. Take into account competitive wage markets, state and federal requirements with
13 regard to training and qualifications of staff, and increases in the cost of new
14 technologies required and expected of providers since 2007.

15 Rules adopted pursuant to this subsection are major substantive rules as defined in Title
16 5, chapter 375, subchapter 2-A.

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

19 SUMMARY

20 This bill requires the Department of Health and Human Services to reimburse
21 services provided to MaineCare member adults with intellectual disabilities or autistic
22 disorder under a waiver granted by the federal Centers for Medicare and Medicaid
23 Services for home-based and community-based care on the basis of rates and a
24 methodology for application of the rates that reflects assessment of individual need and
25 applies criteria for resource allocation established by the department pursuant to criteria
26 established in the bill. The bill also directs the department to adopt rules providing
27 reimbursement rates that take into account specified costs of care and service; suffice to
28 ensure access, including compliance with federal standards; are based on a 2007 report of
29 the department adjusted for cost increases from 2007 to 2016; provide future annual
30 inflation adjustments; and consider competitive wage markets, training and qualification
31 requirements and increased costs of new technologies.