



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1092

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S.P. 374

In Senate, March 19, 2013

### An Act To Increase the Use of Long-term Care Insurance

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator CRAVEN of Androscoggin.  
Cosponsored by Representative GRAHAM of North Yarmouth and  
Senators: President ALFOND of Cumberland, GOODALL of Sagadahoc, HASKELL of  
Cumberland, LACHOWICZ of Kennebec, VALENTINO of York, Representatives: GATTINE  
of Westbrook, LAJOIE of Lewiston.

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

2 **Sec. 1. 22 MRSA §3174-WW** is enacted to read:

3 **§3174-WW. Alternative Long-term Care Benefits Program**

4 There is established within the department the Alternative Long-term Care Benefits  
5 Program, referred to in this section as "the program," to provide alternatives for persons  
6 to insure the costs of their own long-term care and to alleviate some of the costs of long-  
7 term care being paid by MaineCare. The department shall administer the program as a  
8 part of MaineCare.

9 **1. Eligibility.** A person is eligible for the program if the person owns a life  
10 insurance policy with any face amount in excess of \$10,000 and that person enters into a  
11 settlement contract pursuant to Title 24-A, chapter 85 in exchange for payments directly  
12 to a provider of long-term care benefits for the owner of the policy from proceeds of the  
13 settlement contract in accordance with this section. In order to qualify for benefits under  
14 the program, a person must be eligible under this section and meet the other criteria  
15 required for long-term care benefits under the MaineCare program as provided in this  
16 chapter and in rules adopted by the department.

17 **2. Benefits.** The benefits of the program include coverage for long-term care  
18 services under MaineCare after the person participating in the program has used the  
19 available proceeds from the applicable settlement contract.

20 **3. Disregard.** In addition to assets disregarded or exempt under MaineCare program  
21 rules, in determining eligibility for MaineCare and the amount of MaineCare benefits and  
22 in estate recovery pursuant to section 14, subsection 2-I, the program must disregard the  
23 value of a life insurance policy as defined in Title 24-A, section 6802-A, subsection 7 that  
24 is in force and owned by an eligible person if the applicant or recipient enters into a  
25 settlement contract in accordance with this section. As used in this subsection, "value"  
26 means the value received pursuant to the settlement contract.

27 **4. Requirements for settlement contract.** In addition to any requirements in Title  
28 24-A, chapter 85, any settlement contract entered into in accordance with this section  
29 must meet the following requirements.

30 **A.** The lesser of 5% of the face amount of the life insurance policy and \$5,000 must  
31 be reserved as a death benefit payable to the policy owner's estate or beneficiary.

32 **B.** The balance of payments required under the settlement contract unpaid at the  
33 death of the policy owner must be paid to the policy owner's estate or a named  
34 beneficiary.

35 **C.** The settlement contract must include a schedule evidencing the total amount  
36 payable to the policy owner under the settlement contract.

37 **D.** All proceeds of the settlement contract must be held in an irrevocable federally  
38 insured deposit account in a financial institution authorized to do business in this  
39 State pursuant to Title 9-B.

1 E. Notwithstanding the provisions of Title 24-A, section 6810, subsection 1, the  
2 proceeds of a settlement contract entered into pursuant to this section must be greater  
3 than the cash surrender value or accelerated death benefit in the life insurance policy  
4 available at the time the contract is executed by all parties.

5 F. Notwithstanding any other provision of law, a claim from a policy owner, the  
6 policy owner's estate, a beneficiary or any other person with respect to the settlement  
7 contract may not exceed the face amount of the life insurance policy, less the  
8 proceeds paid under the settlement contract and the total amount of premiums paid  
9 subsequent to entering into the settlement contract. A payment of a claim by a  
10 settlement provider must be made from any bond, insurance or deposits maintained  
11 pursuant to paragraph I.

12 G. For purposes of this section, for a life insurance policy that is the subject of a  
13 settlement contract that has been in force for 5 years or more, the provisions of Title  
14 24-A, section 6818 do not apply.

15 H. For purposes of this section, all advertisements of the settlement provider related  
16 to the program must be filed with the Department of Professional and Financial  
17 Regulation, Bureau of Insurance.

18 I. A settlement provider entering into a settlement contract pursuant to this section  
19 must maintain one of the following or any combination thereof in the amount of  
20 \$500,000:

21 (1) A surety bond executed and issued by an insurer authorized to issue surety  
22 bonds in this State;

23 (2) A policy of errors and omissions insurance; and

24 (3) A deposit of cash, certificates of deposit or securities.

25 **5. Disclosures.** In cooperation with the Department of Professional and Financial  
26 Regulation, Bureau of Insurance, the department shall provide, as part of the application  
27 for MaineCare benefits or in a separate document to be signed by an applicant, the  
28 disclosures required by Title 24-A, section 6808-A.

29 **6. Other laws.** Eligibility for the program does not preclude enforcement of laws  
30 regarding recovery of MaineCare benefits incorrectly paid or 3rd-party liability claims by  
31 the department. The provisions of this section do not enlarge or otherwise modify  
32 medical assistance benefits under the MaineCare program. The provisions of section 14,  
33 subsection 2-I, paragraph A, subparagraph (3) do not apply to assets disregarded under  
34 the program.

35 **7. Rulemaking.** The department, after consultation with the Superintendent of  
36 Insurance within the Department of Professional and Financial Regulation, shall adopt  
37 rules to implement this section. Rules adopted pursuant to this subsection are routine  
38 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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**SUMMARY**

2           This bill establishes an alternative long-term care benefit program for those persons  
3 that qualify for long-term benefits under the MaineCare program. The bill allows persons  
4 otherwise eligible for long-term care benefits under MaineCare that own life insurance  
5 policies with face amounts exceeding \$10,000 to enter into life settlement contracts in  
6 exchange for direct payments to a health care provider for long-term care benefits. The  
7 bill prohibits the Department of Health and Human Services from considering the value  
8 of the life settlement contract as an asset or resource in determining eligibility for  
9 MaineCare. The bill also establishes the conditions under which a life settlement contract  
10 may be used, requires certain disclosures to be made to MaineCare applicants and  
11 authorizes the Department of Health and Human Services to adopt rules after consultation  
12 with the Department of Professional and Financial Regulation, Bureau of Insurance.