

126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1189

H.P. 833

House of Representatives, March 26, 2013

An Act Regarding Implementation of Cost-of-living Increases for Nursing Facilities

(EMERGENCY)

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

Millicent M. Macfarland MILLICENT M. MacFARLAND Clerk

Presented by Representative GATTINE of Westbrook.

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

Whereas, Public Law 2011, chapter 411 requires that funds received from an increased provider tax be applied to provide cost-of-living reimbursement to nursing homes and to medical and remedial private nonmedical institutions in accordance with rules adopted by the Department of Health and Human Services; and

Whereas, this legislation specifies that for the first year such an adjustment is made, reimbursement may be made to facilities that provided a cost-of-living increase to its frontline employees in certain prior years; and

Whereas, in order to ensure this legislation is enacted in sufficient time to apply to the first year such an adjustment is made, it must be enacted as an emergency measure; and

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

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

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39 40 **Sec. 1. 36 MRSA §2873, sub-§4, ¶A,** as amended by PL 2011, c. 411, §7, is further amended to read:

A. All revenues received by the assessor during the month pursuant to this chapter from nursing homes net of refunds must be credited to the Nursing Facilities Other Special Revenue funds account in the Department of Health and Human Services. Beginning October 1, 2011, the revenues received in each fiscal year that result from the increase in the tax rate from 5.5% to 6% pursuant to section 2872, subsection 1, paragraph E must be applied first to reimburse nursing homes for the MaineCare portion of the increased tax expense, and all remaining revenue resulting from the increase must be applied to provide cost-of-living increases to MaineCare reimbursement to nursing homes and to medical and remedial private nonmedical institutions that are reimbursed room and board costs and certain other allowable costs under rules adopted by the Department of Health and Human Services. These rules must use a methodology that provides a cost-of-living increase that ensures that such nursing facilities and medical and remedial private nonmedical institutions receive a share of the revenues through MaineCare reimbursement of allowable costs ; and in accordance with this paragraph. A facility or institution that accepts the costof-living adjustment authorized under this paragraph must provide an equal percentage increase in the wages and benefits of all frontline employees in each fiscal year for which the adjustment is made, and a facility or institution that does not comply with this requirement must have the amount of its reimbursement reduced by that portion of the adjustment that:

(1) Applies to wage and benefit expense; and

(2) Exceeds the percentage increase in wages and benefits actually provided to frontline employees during that fiscal year; except that, during the first year in which an adjustment is made pursuant to this paragraph, the amount of reimbursement is reduced by that portion of the adjustment that exceeds the percentage increase in wages and benefits actually provided to frontline employees during the facility's or institution's fiscal years ending in 2009, 2010 and 2011.

For purposes of this paragraph, "frontline employee" means an employee who works in the facility or institution, excluding the administrator. The Department of Health and Human Services shall adopt rules to implement this paragraph to ensure that any reduction in reimbursement is limited in accordance with this paragraph; and

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

14 SUMMARY

This bill amends the law governing the nursing facility and assisted living facility cost-of-living adjustment enacted by the 125th Legislature to specify that during the first year in which an adjustment is made, the reimbursement is reduced by that portion of the adjustment that exceeds the percentage increase in wages and benefits actually provided to frontline employees during the facility's fiscal years ending in 2009, 2010 and 2011.