



126th MAINE LEGISLATURE

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No. 1245

H.P. 879

House of Representatives, March 27, 2013

**Resolve, Directing the Department of Health and Human Services
To Create a More Equitable, Transparent Resource Allocation
System for Nursing Facilities Based on Residents' Needs**

(EMERGENCY)

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative STUCKEY of Portland.
Cosponsored by Senator CRAVEN of Androscoggin and
Representatives: FARNSWORTH of Portland, SANBORN of Gorham.

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,** residents' acuity in Maine's nursing facilities has increased significantly
4 since the State tightened its MaineCare eligibility rules in the mid-1990s, making Maine's
5 acuity and costs of care among the highest in the country; and

6 **Whereas,** Maine's nursing facility reimbursement rates annually lag behind the
7 actual costs of caring for Maine's high-acuity patients by approximately \$30,000,000 due
8 to rate limits derived from 2005 data and arbitrary peer group averages that do not
9 adequately take into account resident need; and

10 **Whereas,** state funding for Maine's nursing facilities is disproportionately and
11 unsustainably reliant upon private pay, Medicare and provider tax revenues, which is
12 causing a growing number of high-acuity, high-cost nursing facilities to need changes in
13 reimbursement to take place as soon as possible; and

14 **Whereas,** all nursing facilities currently collect and report MaineCare acuity based
15 on a resource utilization group scale; and

16 **Whereas,** a growing number of nursing facilities are facing critical and
17 unsustainable financial challenges and need changes in reimbursement to take place as
18 soon as possible; and

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

23 **Sec. 1. Department of Health and Human Services to amend rules on**
24 **reimbursement of nursing facilities. Resolved:** That the Department of Health
25 and Human Services shall amend its rules in the MaineCare Benefits Manual, Chapter III,
26 Section 67 to eliminate the current peer grouping method of establishing upper limits for
27 reimbursement and establish a rate-setting method that:

28 1. Determines patient acuity using the existing measures of acuity, resource
29 utilization groups and data already collected and reported to the Department of Health
30 and Human Services for all MaineCare patients and sets rates as a uniform percentage of
31 Medicare resource utilization group rates adjusted for urban and rural markets but based
32 on General Fund appropriations available for MaineCare;

33 2. Determines standards for exceptions for qualified providers with:

34 A. Demonstrated atypical nursing services and other operating costs related to high
35 acuity and high turnover and high medical costs; and

36 B. Specialized or atypical service delivery in areas where access to care is in
37 jeopardy;

