

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 1979

H.P. 1427

House of Representatives, December 18, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Clerk of the House on December 18, 1989. Referred to the Committee on Banking and Insurance and 1600 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative GWADOSKY of Fairfield.

Cosponsored by Representative MARSANO of Belfast, Senator THERIAULT of Aroostook and Senator BRANNIGAN of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

**An Act Concerning Discontinuance and Replacement of Group
Accident and Health Insurance.**



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

2
4 Sec. 1. 24 MRSA §2330, sub-§3, ¶A, as enacted by PL 1981, c.
606, §1, is amended to read:

6 A. If:

8 (1) That person is eligible for Medicare; or

10 (2) That person:

12 (a) Is covered for similar benefits by any other
14 plan or program;

16 (b) Is eligible for similar benefits coverage
under any group coverage arrangement whether on an
insured or uninsured basis; or

18 (c) Has similar benefits coverage provided ~~for~~
20 available ~~to him~~ pursuant to requirements of any
state or federal law; and

22 Sec. 2. 24 MRSA §2330-A is enacted to read:

24 §2330-A. Discontinuance and replacement of group accident and
26 health coverage

28 1. Applicability. This section applies to hospital,
30 medical or health care service contracts issued for delivery in
32 the State by a nonprofit hospital medical or health service
34 organization, other than a contract which provides benefits for
36 specific diseases or accidental injuries which are issued on a
38 group or group-type basis covering persons as employees of
40 employers, as members of unions or associations or as individuals
42 covered under a trustee, debtor, credit union or other group. As
44 used in this section, the term "group-type basis" means a benefit
46 plan other than salary budget plans utilizing individual
48 insurance policies or subscriber contract, which meets the
50 following conditions:

42 A. Coverage is provided through subscriber contracts to
44 classes of employees or members defined in terms of
46 conditions pertaining to employment or membership;

46 B. The coverage is not available to the general public and
48 can be obtained and maintained only because of the covered
50 person's membership in or in connection with the particular
52 organization or group;

50 C. There are arrangements for bulk payment of premiums or
52 subscription charges to the insurer or nonprofit service
corporation; or

2 D. There is sponsorship of the plan by the employer, union
4 or association.

6 2. Continuance of coverage in situations involving
7 replacement of one carrier by another. This subsection
8 identifies which carrier is responsible for coverage when the
9 contract of one carrier is replaced with a benefit plan of
10 another carrier.

12 A. The prior carrier remains liable after termination of
13 its policy or contract only to the extent of its incurred
14 claims. The position of the prior carrier is the same
15 whether the group policy holder or other entity secures
16 replacement coverage from a new carrier, self-insures or
17 foregoes the provision of coverage.

18 B. The liability of the succeeding carrier is determined as
19 follows.

20 (1) Each individual who is eligible for coverage in
21 accordance with the succeeding carrier's plan of
22 benefits, in regard to classes eligible and
23 actively-at-work and nonconfinement rules, shall be
24 covered by that carrier's plan of benefits.

26 (2) Each individual not covered under the succeeding
27 carrier's plan of benefits in accordance with
28 subparagraph (1), must nevertheless be covered by the
29 succeeding carrier without evidence of insurability if
30 that individual was validly covered within 60 days
31 prior to the date of discontinuance and if that
32 individual is a member of the class or classes of
33 individuals eligible for coverage under the succeeding
34 carrier's plan.

36 (a) The minimum level of benefits to be provided
37 by the succeeding carrier is the applicable level
38 of benefits of the prior carrier's plan reduced by
39 any benefits payable under the prior plan.

41 (b) Coverage must be provided by the succeeding
42 carrier until at least the earliest of the
43 following dates:

45 (i) The date the individual becomes eligible
46 under the succeeding carrier's plan as
47 described in subparagraph (1); or

49 (ii) For each type of coverage, the date the
50 individual's coverage would terminate in
51 accordance with the succeeding carrier's plan
52

2 provisions applicable to individual
3 termination of coverage.

4 (3) In any situation where a determination of the
5 prior carrier's benefit is required by the succeeding
6 carrier, at the succeeding carrier's request the prior
7 carrier must furnish a statement of the benefits
8 available or pertinent information sufficient to permit
9 verification of the benefit determination or the
10 determination itself by the succeeding carrier. For
11 the purposes of this section, benefits of the prior
12 plan must be determined in accordance with all of the
13 definitions, conditions and covered expense provisions
14 of the prior plan rather than those of the succeeding
15 plan. The benefit determination must be made as if
16 coverage had not been replaced by the succeeding
17 carrier.

18 **Sec. 3. 24-A MRSA §2804, sub-§3, as repealed and replaced by**
19 **PL 1981, c. 147, §2, is repealed and the following enacted in its**
20 **place:**

21 3. Except in the case of discontinuance and replacement of
22 group health insurance in accordance with section 2809-B, an
23 insurer may exclude or limit coverage on any person as to whom
24 evidence of insurability is not satisfactory to the insurer.

25 **Sec. 4. 24-A MRSA §2805, sub-§3, as repealed and replaced by**
26 **PL 1981, c. 147, §3, is repealed and the following enacted in its**
27 **place:**

28 3. Except in the case of discontinuance and replacement of
29 group health insurance in accordance with section 2809-B, an
30 insurer may exclude or limit coverage on any person as to whom
31 evidence of insurability is not satisfactory to the insurer.

32 **Sec. 5. 24-A MRSA §2805-A, sub-§4, as enacted by PL 1981, c.**
33 **147, §4, is repealed and the following enacted in its place:**

34 4. Except in the case of discontinuance and replacement of
35 group health insurance in accordance with section 2809-B, an
36 insurer may exclude or limit coverage on any person as to whom
37 evidence of insurability is not satisfactory to the insurer.

38 **Sec. 6. 24-A MRSA §2806, sub-§3, as repealed and replaced by**
39 **PL 1981, c. 147, §5, is repealed and the following enacted in its**
40 **place:**

41 3. Except in the case of discontinuance and replacement of
42 group health insurance in accordance with section 2809-B, an
43 insurer may exclude or limit coverage on any person as to whom
44 evidence of insurability is not satisfactory to the insurer.

2 **Sec. 7. 24-A MRSA §2807-A, sub-§3**, as enacted by PL 1981, c.
147, §7, is repealed and the following enacted in its place:

4
6 3. Except in the case of discontinuance and replacement of
group health insurance in accordance with section 2809-B, an
insurer may exclude or limit coverage on any person as to whom
8 evidence of insurability is not satisfactory to the insurer.

10 **Sec. 8. 24-A MRSA §2808, sub-§4**, as enacted by PL 1981, c.
147, §8, is repealed and the following enacted in its place:

12
14 4. Except in the case of discontinuance and replacement of
group health insurance in accordance with section 2809-B, an
16 insurer may exclude or limit coverage on any person as to whom
evidence of insurability is not satisfactory to the insurer.

18 **Sec. 9. 24-A MRSA §2809-A, sub-§3, ¶A**, as enacted by PL 1981,
c. 606, §2, is amended to read:

20 A. If:

22 (1) That person is eligible for Medicare; or

24 (2) That person:

26 (a) Is covered for similar benefits by any other
28 plan or program;

30 (b) Is eligible for similar benefits coverage
32 under any group coverage arrangement whether on an
insured or uninsured basis; or

34 (c) Has similar benefits coverage provided ~~for~~ or
36 available ~~to him~~ pursuant to requirements of any
state or federal law; and

38 **Sec. 10. 24-A MRSA §2809-B** is enacted to read:

40 §2809-B. Discontinuance and replacement of group accident and
42 health coverage

44 1. Applicability. This section applies to policies issued
for delivery in the State which provides hospital, surgical or
46 major medical expense insurance or any combination thereof, other
than a contract which provides benefits for specific diseases or
48 accidental injuries which are issued on a group or group-type
basis covering persons as employees of employers, as members of
50 unions or associations or as individuals covered under a trustee,
debtor, credit union or other group. As used in this section,
52 the term "group-type basis" means a benefit plan other than

2 salary budget plans utilizing individual insurance policies or
3 subscriber contracts, which meets the following conditions:

4 A. Coverage is provided through subscriber contracts to
5 classes of employees or members defined in terms of
6 conditions pertaining to employment or membership;

8 B. The coverage is not available to the general public and
9 can be obtained and maintained only because of the covered
10 person's membership in or in connection with the particular
11 organization or group;

12 C. There are arrangements for bulk payment of premiums or
13 subscription charges to the insurer or nonprofit service
14 corporation; or

15 D. There is sponsorship of the plan by the employer, union
16 or association.

17
18
19
20 2. Continuance of coverage in situations involving
21 replacement of one carrier by another. This subsection
22 identifies which carrier is responsible for coverage when the
23 contract of one carrier is replaced with a benefit plan of
24 another carrier.

25
26 A. The prior carrier remains liable after termination of
27 its policy or contract only to the extent of its incurred
28 claims. The position of the prior carrier is the same
29 whether the group policy holder or other entity secures
30 replacement coverage from a new carrier, self-insures or
31 foregoes the provision of coverage.

32
33 B. The liability of the succeeding carrier is determined as
34 follows.

35
36 (1) Each individual who is eligible for coverage in
37 accordance with the succeeding carrier's plan of
38 benefits, in regard to classes eligible and
39 actively-at-work and nonconfinement rules, shall be
40 covered by that carrier's plan of benefits.

41
42 (2) Each individual not covered under the succeeding
43 carrier's plan of benefits in accordance with
44 subparagraph (1), must nevertheless be covered by the
45 succeeding carrier without evidence of insurability if
46 that individual was validly covered under the prior
47 plan within 60 days prior to the date of discontinuance
48 and if that individual is a member of the class or
49 classes of individuals eligible for coverage under the
50 succeeding carrier's plan.

2 (a) The minimum level of benefits to be provided
4 by the succeeding carrier is the applicable level
 of benefits of the prior carrier's plan reduced by
 any benefits payable under the prior plan.

6 (b) Coverage must be provided by the succeeding
8 carrier until at least the earliest of the
 following dates:

10 (i) The date the individual becomes eligible
12 under the succeeding carrier's plan as
 described in subparagraph (1); or

14 (ii) For each type of coverage, the date the
16 individual's coverage would terminate in
18 accordance with the succeeding carrier's plan
 provisions applicable to individual
 termination of coverage.

20 (3) In any situation where a determination of the
22 prior carrier's benefit is required by the succeeding
24 carrier, at the succeeding carrier's request the prior
26 carrier must furnish a statement of the benefits
28 available or pertinent information sufficient to permit
30 verification of the benefit determination or the
32 determination itself by the succeeding carrier. For
34 the purposes of this section, benefits of the prior
36 plan must be determined in accordance with all of the
38 definitions, conditions and covered expense provisions
40 of the prior plan rather than those of the succeeding
42 plan. The benefit determination must be made as if
44 coverage had not been replaced by the succeeding
46 carrier.

STATEMENT OF FACT

38 This bill amends the nonprofit and commercial group health
40 insurance laws to clarify that if group coverage is available to
42 an employee, the employee will not be eligible for nongroup
conversion.

44 This bill amends the nonprofit and commercial group health
46 insurance laws to protect employees against loss of coverage as a
48 result of change in carrier by clearly defining the
responsibilities of prior and succeeding carriers.

50 This bill amends the provisions describing groups eligible
52 for group coverage by making it clear that any insurer's ability
to impose evidence of insurability requirements is subject to the
group discontinuance and replacement law.