

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1650

H.P. 1186

House of Representatives, April 30, 2019

An Act To Strengthen Consumer Protections in Health Care

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TIPPING of Orono.
Cosponsored by Senator SANBORN, L. of Cumberland and
Representatives: BROOKS of Lewiston, FOLEY of Biddeford, MADIGAN of Waterville,
MARTIN of Eagle Lake, MELARAGNO of Auburn, TEPLER of Topsham, Senator:
GRATWICK of Penobscot.

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

2 **Sec. 1. 24-A MRSA §2735-A, sub-§1**, as amended by PL 2011, c. 364, §1, is
3 further amended to read:

4 **1. Notice of rate filing or rate increase on existing policies.** An insurer offering
5 individual health plans as defined in section 2736-C must provide written notice by first
6 class mail of a rate filing to all affected policyholders at least 60 days before the effective
7 date of any proposed increase in premium rates or any proposed rating formula,
8 classification of risks or modification of any formula or classification of risks. ~~Except as~~
9 ~~otherwise provided in section 2736-C, subsection 2-B, the~~ The notice must also inform
10 policyholders of their right to request a hearing pursuant to section 229. The notice must
11 show the proposed rate and, ~~unless otherwise provided in section 2736-C, subsection 2-B,~~
12 state that the rate is subject to regulatory approval. ~~Except as otherwise provided in~~
13 ~~section 2736-C, subsection 2-B, the~~ The superintendent may not take final action on a
14 rate filing until 40 days after the date notice is mailed by an insurer. An increase in
15 premium rates may not be implemented until 60 days after the notice is provided or until
16 the effective date under section 2736, whichever is later.

17 **Sec. 2. 24-A MRSA §2736-C, sub-§2, ¶C-1**, as enacted by PL 2011, c. 90, Pt.
18 A, §2, is repealed.

19 **Sec. 3. 24-A MRSA §2736-C, sub-§2, ¶D**, as amended by PL 2019, c. 5, Pt. A,
20 §3, is further amended to read:

21 D. A carrier may vary the premium rate due to age, geographic area and tobacco use
22 in accordance with the limitations set out in this paragraph. A carrier that varies the
23 premium rate due to age must vary the premium rate according to a uniform age
24 curve. The superintendent shall adopt rules establishing a uniform age curve that is
25 substantially similar to the age curve in effect on January 1, 2019 under the federal
26 Affordable Care Act. Rules adopted under this paragraph are routine technical rules
27 as defined in Title 5, chapter 375, subchapter 2-A.

28 (1) For all policies, contracts or certificates that are executed, delivered, issued
29 for delivery, continued or renewed in this State between December 1, 1993 and
30 July 14, 1994, the premium rate may not deviate above or below the community
31 rate filed by the carrier by more than 50%.

32 (2) For all policies, contracts or certificates that are executed, delivered, issued
33 for delivery, continued or renewed in this State between July 15, 1994 and July
34 14, 1995, the premium rate may not deviate above or below the community rate
35 filed by the carrier by more than 33%.

36 (3) For all policies, contracts or certificates that are executed, delivered, issued
37 for delivery, continued or renewed in this State between July 15, 1995 and June
38 30, 2012, the premium rate may not deviate above or below the community rate
39 filed by the carrier by more than 20%.

40 (5) For all policies, contracts or certificates that are executed, delivered, issued
41 for delivery, continued or renewed in this State between July 1, 2012 and

1 December 31, 2013, the maximum rate differential due to age filed by the carrier
2 as determined by ratio is 3 to 1. The limitation does not apply for determining
3 rates for an attained age of less than 19 years of age or more than 65 years of age.

4 (6) For all policies, contracts or certificates that are executed, delivered, issued
5 for delivery, continued or renewed in this State between January 1, 2014 and
6 December 31, 2014, the maximum rate differential due to age filed by the carrier
7 as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable
8 Care Act. The limitation does not apply for determining rates for an attained age
9 of less than 19 years of age or more than 65 years of age.

10 (7) For all policies, contracts or certificates that are executed, delivered, issued
11 for delivery, continued or renewed in this State on or after January 1, 2015,
12 except as provided in subparagraph ~~(9)~~ (10), the maximum rate differential due to
13 age filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by
14 the federal Affordable Care Act. The limitation does not apply for determining
15 rates for an attained age of less than 19 years of age or more than 65 years of age.

16 (8) For all policies, contracts or certificates that are executed, delivered, issued
17 for delivery, continued or renewed in this State on or after July 1, 2012, the
18 maximum rate differential due to tobacco use filed by the carrier as determined
19 by ratio is 1.5 to 1, except that the carrier may not apply a rate differential
20 pursuant to this subparagraph when the covered individual is participating in an
21 evidence-based tobacco cessation strategy approved by the United States
22 Department of Health and Human Services, Food and Drug Administration.

23 ~~(9) For all policies, contracts or certificates that are executed, delivered, issued~~
24 ~~for delivery, continued or renewed in this State on or after the effective date of~~
25 ~~this subparagraph, the maximum rate differential due to age filed by the carrier as~~
26 ~~determined by ratio is 3 to 1 for individuals 21 years of age and older on the first~~
27 ~~day of coverage under the policy, contract or certificate. The variation in rate due~~
28 ~~to age must be actuarially justified for individuals under 21 years of age~~
29 ~~consistent with the uniform age rating curve adopted under this paragraph.~~

30 (10) For all policies, contracts or certificates that are executed, delivered, issued
31 for delivery, continued or renewed in this State on or after January 1, 2020, for
32 each individual health plan offered by a carrier, the highest premium rate for each
33 rating tier may not exceed 2.5 times the premium rate that could be charged to an
34 eligible individual with the lowest premium rate for that rating tier in a given
35 rating period. For purposes of this subparagraph, "rating tier" means each
36 category of individual or family composition for which a carrier charges separate
37 rates.

38 (a) In determining the rating factor for geographic area pursuant to this
39 subparagraph, the ratio between the highest and lowest rating factor used by a
40 carrier for geographic area may not exceed 1.5 and the ratio between highest
41 and lowest combined rating factors for age and geographic area may not
42 exceed 2.5.

1 (b) In determining rating factors for age and geographic area pursuant to this
2 subparagraph, rates must take into account the savings resulting from the
3 reinsurance program created by chapter 54-A.

4 (c) The superintendent shall adopt rules setting forth appropriate
5 methodologies regarding determination of rating factors pursuant to this
6 subparagraph. Rules adopted pursuant to this division are routine technical
7 rules as defined in Title 5, chapter 375, subchapter 2-A.

8 **Sec. 4. 24-A MRSA §2736-C, sub-§2-B**, as amended by PL 2011, c. 364, §7, is
9 repealed.

10 **Sec. 5. 24-A MRSA §2736-C, sub-§5**, as amended by PL 2019, c. 5, Pt. A, §6, is
11 further amended to read:

12 **5. Loss ratios.** ~~Except as provided in subsection 2-B, for~~ For all policies and
13 certificates issued on or after the effective date of this section, the superintendent shall
14 disapprove any premium rates filed by any carrier, whether initial or revised, for an
15 individual health policy unless it is anticipated that the medical loss ratio calculated under
16 section 4319 will be at least 80%.

17 **Sec. 6. 24-A MRSA §2808-B, sub-§2, ¶C-1**, as enacted by PL 2011, c. 90, Pt.
18 A, §7, is repealed.

19 **Sec. 7. 24-A MRSA §2808-B, sub-§2, ¶D**, as amended by PL 2019, c. 5, Pt. A,
20 §11, is further amended to read:

21 D. A carrier may vary the premium rate due to age, geographic area and tobacco use
22 in accordance with the limitations set out in this paragraph. A carrier that varies the
23 premium rate due to age must vary the premium rate according to a uniform age
24 curve. The superintendent shall adopt rules establishing a uniform age curve that is
25 substantially similar to the age curve in effect on January 1, 2019 under the federal
26 Affordable Care Act. Rules adopted under this paragraph are routine technical rules
27 as defined in Title 5, chapter 375, subchapter 2-A.

28 (1) For all policies, contracts or certificates that are executed, delivered, issued
29 for delivery, continued or renewed in this State between July 15, 1993 and July
30 14, 1994, the premium rate may not deviate above or below the community rate
31 filed by the carrier by more than 50%.

32 (2) For all policies, contracts or certificates that are executed, delivered, issued
33 for delivery, continued or renewed in this State between July 15, 1994 and July
34 14, 1995, the premium rate may not deviate above or below the community rate
35 filed by the carrier by more than 33%.

36 (3) For all policies, contracts or certificates that are executed, delivered, issued
37 for delivery, continued or renewed in this State between July 15, 1995 and
38 September 30, 2011, the premium rate may not deviate above or below the
39 community rate filed by the carrier by more than 20%.

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(4) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2011 and September 30, 2012, the maximum rate differential due to age filed by the carrier as determined by ratio is 2 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(5) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between October 1, 2012 and December 31, 2013, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 2.5 to 1. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(6) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2014 and December 31, 2014, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 3 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(7) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State between January 1, 2015 and December 31, 2015, the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 4 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(8) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016, except as provided in subparagraph ~~(4)~~ (11), the maximum rate differential due to age and group size filed by the carrier as determined by ratio is 5 to 1 to the extent permitted by the federal Affordable Care Act. The limitation does not apply for determining rates for an attained age of less than 19 years of age or more than 65 years of age.

(9) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after October 1, 2011, the maximum rate differential due to tobacco use filed by the carrier as determined by ratio is 1.5 to 1, except that the carrier may not apply a rate differential pursuant to this subparagraph when the covered individual is participating in an evidence-based tobacco cessation strategy approved by the United States Department of Health and Human Services, Food and Drug Administration.

~~(10) For all policies, contracts or certificates that are executed, delivered, issued for delivery, continued or renewed in this State on or after the effective date of this Act, the maximum rate differential due to age filed by the carrier as determined by ratio is 3 to 1 for individuals 21 years of age and older on the first day of coverage under the policy, contract or certificate. The variation in rate due to age must be actuarially justified for individuals under 21 years of age consistent with the uniform age rating curve adopted under this paragraph.~~

1 (11) For all policies, contracts or certificates that are executed, delivered, issued
2 for delivery, continued or renewed in this State on or after January 1, 2020, for
3 each small group health plan offered by a carrier, the highest premium rate for
4 each rating tier may not exceed 2.5 times the premium rate that could be charged
5 to an eligible individual with the lowest premium rate for that rating tier in a
6 given rating period. For purposes of this subparagraph, "rating tier" means each
7 category of individual or family composition for which a carrier charges separate
8 rates.

9 (a) In determining the rating factor for geographic area pursuant to this
10 subparagraph, the ratio between the highest and lowest rating factor used by a
11 carrier for geographic area may not exceed 1.5 and the ratio between highest
12 and lowest combined rating factors for age and geographic area may not
13 exceed 2.5.

14 (b) In determining rating factors for age and geographic area pursuant to this
15 subparagraph, rates must take into account the savings resulting from the
16 reinsurance program created by chapter 54-A.

17 (c) The superintendent shall adopt rules setting forth appropriate
18 methodologies regarding determination of rating factors pursuant to this
19 subparagraph. Rules adopted pursuant to this division are routine technical
20 rules as defined in Title 5, chapter 375, subchapter 2-A.

21 **SUMMARY**

22 This bill makes changes to the rating provisions for individual and small group health
23 insurance plans to reduce the rating band for age and to require that the ratio on the basis
24 of geographic area is 1.5 to 1 and that the ratio for age and geographic area may not
25 exceed 2.5. The changes in the bill reinstate the rating provisions in place before the
26 enactment of Public Law 2011, chapter 90.