

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)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1629

H. P. 1252

House of Representatives, April 3, 1975

Speaker laid before the House and on Motion of Mr. Gauthier of Sanford, referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Clark of Freeport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Limit Priority Liens in Individual and Group Health Insurance Policies.

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

Sec. 1. 24-A MRSA § 2729-A is enacted to read:

§ 2729-A. Limits on priority liens

No policy for health insurance shall provide for priority over the insured of payment for any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the policy, in the event the insured is entitled to receive payment reimbursement from any other person as a result of legal action or claim, except as provided herein.

A policy may contain a provision that allows such payments, if that provision is approved by the superintendent, and if that provision requires the prior written approval of the insured and allows such payments only on a just and equitable basis and not on the basis of a priority lien. A just and equitable basis shall mean that any factors that diminish the potential value of the insured's claim shall likewise reduce the share in the claim for those claiming payment for services or reimbursement. Such factors shall include, but are not limited to:

1. Legal defenses. Questions of liability and comparative negligence or other legal defenses;

2. Exigencies of trial. Exigencies of trial that reduce a settlement or award in order to resolve the claim; and

3. Limits of coverage. Limits on the amount of applicable insurance coverage that reduce the claim to an amount recoverable by the insured.

In the event of a dispute as to the application of any such provision or the amount available for payment to those claiming payment for services or reimbursement, the dispute shall be determined if the action is pending, before the court in which it is pending; or if no action is pending, by filing an action in any court for determination of the dispute, such action to be tried by the court without a jury.

Sec. 2. 24-A MRSA § 2832 is enacted to read:

§ 2832. Limits on priority liens

No group or blanket policy shall provide for priority over the insured member of payment for any hospital, nursing, medical or surgical services, or of any expenses paid or reimbursed under the policy, in the event the insured member is entitled to receive payment reimbursement from any other person as a result of legal action or claim, except as provided herein.

A policy may contain a provision that allows such payments, if that provision is approved by the superintendent, and if that provision requires the prior written approval of the insured member and allows such payments only on a just and equitable basis, and not on the basis of a priority lien. A just and equitable basis shall mean that any factors that diminish the potential value of the insured member's claim shall likewise reduce the share in the claim for those claiming payment for services or reimbursement. Such factors shall include, but are not limited to:

1. Legal defenses. Questions of liability and comparative negligence or other legal defenses;

2. Exigencies of trial. Exigencies of trial that reduce a settlement or award in order to resolve the claim; and

3. Limits of coverage. Limits on the amount of applicable insurance coverage that reduce the claim to an amount recoverable by the insured member.

In the event of a dispute as to the application of any such provision or the amount available for payment to those claiming payment for services or reimbursement, the dispute shall be determined if the action is pending, before the court in which it is pending; or if no action is pending, by filing an action in any court for determination of the dispute, such action to be tried by the court without a jury.

STATEMENT OF FACT

The purpose of this bill is to prohibit a priority lien in any individual or group health insurance contract that gives the payment for medical services or the payment of reimbursement for such expenses a priority over payment to the insured of any legal claim against a 3rd party. Health insurance policies may allow the payment of such expenses or reimbursements on a just and equitable basis, wherein both the insured's share and the expenses or reimbursement are reduced equally if the claim is reduced.