

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 984

S.P. 367

In Senate, March 29, 1989

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by President PRAY of Penobscot.

Cosponsored by Senator CLARK of Cumberland, Speaker MARTIN of Eagle Lake and Representative GWADOSKY of Fairfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act Related to Improving Access to Long-term Health Care Insurance.



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

3 **Sec. 1. 24-A MRSA §5051, sub-§1, as enacted by PL 1985, c.**
5 **648, §12, is amended to read:**

7 **1. Long-term care policy.** "Long-term care policy" means a
9 group or individual policy of health insurance or a subscriber
11 contract of a nonprofit hospital or medical service organization
13 or nonprofit health care plan which is advertised, marketed or
15 designed primarily to provide coverage ~~or services for chronic or~~
17 ~~terminally ill care in either institutional or community-based~~
settings for not less than 12 consecutive months for each covered
person on an expense-incurred basis, indemnity basis, prepaid or
other basis for one or more necessary or medically necessary
diagnostic, preventive, therapeutic, rehabilitative, maintenance
or personal care services, provided in a setting other than an
acute care unit of a hospital. That The term does not include:

19 **A.** A policy or contract defined as Medicare supplement
21 insurance pursuant to chapter 67;

23 ~~B. A policy or contract issued to one or more employers or~~
~~labor organizations or of the trustees of a fund established~~
~~by one or more employers or labor organizations, or~~
25 ~~combination of both, or for members or former members, or~~
~~combination of both, of the labor organizations;~~

27 ~~C. A policy or contract issued to any professional, trade~~
29 ~~or occupational association for its members, former members~~
~~or retired members or combination of all members, if the~~
31 ~~association;~~

33 ~~(1) Is composed of individuals all of whom are~~
~~actively engaged in the same profession, trade or~~
35 ~~occupation;~~

37 ~~(2) Has been maintained in good faith for purposes~~
~~other than obtaining insurance; and~~

39 ~~(3) Has been in existence for at least 2 years prior~~
41 ~~to the date of its initial offering of the policy or~~
~~plan to its members; and~~

43 **D.** ~~Individual policies or contracts issued pursuant to a~~
45 ~~conversion privilege under a policy or contract of group or~~
~~individual insurance when that group or individual policy or~~
47 ~~contract includes provisions which are inconsistent with the~~
~~requirements of this chapter.~~ Individual policies or
49 contracts issued pursuant to a conversion privilege under a
policy or contract of group or individual insurance when
51 that group or individual policy or contract:

1 (1) Was issued prior to January 1, 1990; and

3 (2) Includes provisions which are inconsistent with
5 the requirements of this chapter; and

7 E. A policy or contract offered primarily to provide basic
9 hospital expense coverage, basic medical-surgical expense
11 coverage, hospital confinement indemnity coverage, major
 medical expense coverage, disability income protection,
 accident only coverage, specified disease or specified
 accident coverage, or limited benefit health coverage.

13 **Sec. 2. 24-A MRSA §5051, sub-§§4 and 5 are enacted to read:**

15 4. Home health care provider. "Home health care provider"
17 has the same meaning as set forth in section 2745.

19 5. Home health care services. "Home health care services"
21 has the same meaning as set forth in section 2745, subsections 1
 and 2, except that the requirements of section 2745, subsection
 1, paragraph A shall not apply.

23 **Sec. 3. 24-A MRSA §§5051-A and 5051-B are enacted to read:**

25 **§5051-A. Required and prohibited provisions**

27 1. Prohibited provisions. A long-term care policy may not:

29 A. Contain coverage for skilled nursing facilities only;

31 B. Exclude coverage for skilled, intermediate or custodial
33 care received by a resident of a skilled nursing or
 intermediate care facility;

35 C. Require a prior hospital stay as a condition for any
37 policy benefits;

39 D. Require a prior skilled nursing facility stay as a
 condition for intermediate care facility benefits; or

41 E. Require prior institutionalization as a condition of
43 receipt of home health care benefits.

45 2. Required provisions. A long-term care policy must
 provide:

47 A. Custodial care benefits that are at least 50% of those
49 provided for skilled nursing care in a nursing facility
 provided that the benefits need not exceed usual, customary
 and reasonable charges;

1
3 B. Benefits for home health care services rendered by a home health care provider;

5 C. Home health care coverage for at least 90 visits in any continuous 12-month period during which coverage is in force; and

7
9 D. Per visit benefits for home health care services which are at least 50% of the daily benefit for skilled nursing facility confinement provided that the benefit need not exceed usual, customary and reasonable charges.

13 §5051-B. Alternative policies

15 1. Innovative long-term care products permitted.
17 Notwithstanding section 5051-A, an insurer, organization or plan may offer a long-term care policy, within the meaning of section 5051, subsection 1, which does not meet one or more of the requirements of section 5051-A if the Superintendent of Insurance finds that:

23 A. For each requirement of section 5051-A which is not satisfied, there is a valid reason why that requirement is inappropriate for the policy design in question;

27 B. The total package of benefits provided is at least as comprehensive as that required by section 5051-A; and

29 C. Availability of the policy would be in the best interest of the public taking into consideration the following factors:

33 (1) Whether the policy accomplishes the goal of providing dependable benefits for long-term care; and

35 (2) Whether the plans for marketing the policy contain adequate safeguards to minimize any confusion that may be caused to consumers by the failure of the policy to fall within the established guidelines of this section.

41 2. Qualifications for tax incentives. If the superintendent finds that a policy meets the criteria of subsection 1, the superintendent, in determining whether to certify the policy for tax incentives under section 5054, shall consider the policy to comply with each of the requirements of section 5051-A.

43
45 Sec. 4. 24-A MRSA §§5054 and 5055 are enacted to read:

47
49
51 §5054. Certification by superintendent

1 1. Filing of form. Any insurer, nonprofit hospital or
3 medical service organization, or nonprofit health care plan may,
 at the time it files a policy or contract for approval for
5 issuance or delivery in the State, request that the
 superintendent certify the policy or contract as a long-term care
7 policy within the meaning of section 5051.

9 Within 60 days of receipt of a request for certification, the
 superintendent shall:

11 A. Certify in writing that the policy or contract complies
 with this section;

13 B. Deny the request in writing, stating the reasons for
15 denial; or

17 C. Notify the insurer or nonprofit hospital or medical
 service organization or nonprofit health care plan in
19 writing that an insufficient basis exists for determining
 whether a certification should be made, indicating in what
21 respects the request was insufficient.

23 2. Standards for compliance. The superintendent shall
25 certify a policy or contract submitted for review under this
 section as a long-term care policy if the superintendent finds
27 that the policy or contract:

29 A. Is a long-term care policy within the meaning of section
 5051; and

31 B. Complies with all standards applicable to long-term care
 policies as set forth in this chapter and in chapters 27, 33
33 and 35 and in rules adopted pursuant to any of those
 chapters by the superintendent. Waivers granted under the
35 rules shall be taken into consideration.

37 §5055. Tax incentives available

39 1. Reduced premium tax. Any insurance company choosing to
41 offer an insurance policy which is certified by the
 superintendent as a long-term care policy shall qualify for the
43 reduced tax on premiums collected under Title 36, section 2513.

45 2. Income tax reduction. Any person paying premiums for a
 policy or contract which is certified by the superintendent as a
47 long-term care policy shall qualify for the income tax deduction
 provided for in Title 36, section 5122.

49 3. Credit for employers. An employer providing long-term
51 care benefits to its employees may qualify for the tax credit
 provided by Title 36, section 2525 or 5217-B.

1 4. Provision of records. Any person who holds a group
2 long-term care policy pursuant to or under which premiums are
3 paid in whole or in part by certificate holders or other 3rd
4 parties shall provide to those certificate holders or 3rd parties
5 adequate and timely records to enable those persons to have
6 knowledge of the tax reduction to which they may be entitled
7 under subsection 2 and under Title 36, section 5122.

8 **Sec. 5. 36 MRSA §2513**, as amended by PL 1985, c. 783, §11, is
9 further amended by adding at the end a new paragraph to read:

10 Notwithstanding this section, for income tax years
11 commencing on or after January 1, 1989, the tax imposed by this
12 section upon all gross direct premiums collected or contracted
13 for on long-term care policies, as certified by the
14 superintendent pursuant to Title 24-A, section 5054, shall be at
15 the rate of 1% a year.

16 **Sec. 6. 36 MRSA §2525** is enacted to read:

17 **§2525. Employer-provided long-term care benefits**

18 1. Credit. A taxpayer under this chapter constituting an
19 employing unit is allowed a credit against the tax imposed by
20 this chapter for each taxable year equal to the lowest of the
21 following:

22 A. Five thousand dollars;

23 B. Twenty percent of the costs incurred by the taxpayer in
24 providing long-term care policy coverage as part of a
25 benefit package; or

26 C. One hundred dollars for each employee covered by an
27 employer-provided long-term care policy.

28 2. Definition. As used in this section, "long-term care
29 policy" has the same meaning as in Title 24-A, section 5051.

30 **Sec. 7. 36 MRSA §5122, sub-§2, ¶C**, as amended by PL 1987, c.
31 739, §§45 and 48, and by PL 1987, c. 772, §36, is repealed and
32 the following enacted in its place:

33 C. Social security benefits and tier 1 railroad retirement
34 benefits paid by the United States, to the extent included
35 in federal adjusted gross income;

36 **Sec. 8. 36 MRSA §5122, sub-§2, ¶D**, as amended by PL 1987, c.
37 739, §§46 and 48, is further amended to read:

38 D. For each of the taxable years ending in 1985 through
39 1987, 1/3 of the amount by which federal adjusted gross

1 income was increased for the taxable year ending in 1984
2 under subsection 1, paragraph F; and

3

4 **Sec. 9. 36 MRSA §5122, sub-§2, ¶E,** as enacted by PL 1987, c.
5 739, §§47 and 48, is amended to read:

6
7 E. Pick-up contributions paid to the taxpayer by the Maine
8 State Retirement System which have been previously taxed
9 under this Part. ; and

11 **Sec. 10. 36 MRSA §5122, sub-§2, ¶F** is enacted to read:

12
13 F. For income tax years commencing on or after January 1,
14 1989, an amount equal to the total premiums spent for
15 insurance policies for long-term care which have been
16 certified by the Superintendent of Insurance as complying
17 with Title 24-A, chapter 68.

18
19 **Sec. 11. 36 MRSA §5217-B** is enacted to read:

20
21 **§5217-B. Employer-provided long-term care benefits**

22
23 1. Credit. A taxpayer constituting an employing unit is
24 allowed a credit against the tax imposed by this Part for each
25 taxable year equal to the lowest of the following:

26
27 A. Five thousand dollars;

28
29 B. Twenty percent of the costs incurred by the taxpayer in
30 providing long-term care policy coverage as part of a
31 benefit package; or

32
33 C. One hundred dollars for each employee covered by an
34 employer-provided long-term care policy.

35

36
37 2. Definition. As used in this section, "long-term care
policy" has the same meaning as in Title 24-A, section 5051.

38
39 **Sec. 12. Consumer education program.** The Superintendent of
40 Insurance shall establish a consumer education program concerning
41 long-term care insurance. In particular, the superintendent
42 shall review the Senior Health Insurance Benefit Advisors
43 programs, or SHIBA, currently in operation in other states, and
44 shall devise a strategy for implementing a similar SHIBA program
45 in this State. The superintendent shall submit a report,
46 together with any necessary implementing legislation to the
47 Second Regular Session of the 114th Legislature no later than
48 February 1, 1990, regarding progress on the implementation of a
49 SHIBA program.

