

# 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. 2274

---

H.P. 1641

House of Representatives, February 1, 1990

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

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

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

EDWIN H. PERT, Clerk

Presented by Representative RYDELL of Brunswick.

Cosponsored by Senator THERIAULT of Aroostook, Senator BUSTIN of Kennebec and Representative MANNING of Portland.

---

STATE OF MAINE

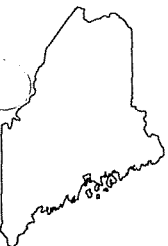
---

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

---

**An Act to Ensure Continuity of Health Insurance Coverage.**

---



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

4 Sec. 1. 24 MRSA c. 19, sub-c. II-B is enacted to read:

6 SUBCHAPTER II-B

8 CONTINUITY OF HEALTH INSURANCE COVERAGE

10 §2346. Definitions

12 As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

14 1. "Health plan" means any of the following, within or without the State, that provides direct services or payment for services rendered in the diagnosis or treatment of any physical or mental condition:

18 A. A group or blanket policy of health insurance as described in Title 24-A, chapter 35;

20 B. An individual health insurance contract as described in Title 24-A, chapter 33;

22 C. A contract between a subscriber and a nonprofit hospital or medical service organization described in subchapter I;

24 D. A health maintenance contract issued by a health maintenance organization as defined in Title 24-A, section 4202;

26 E. A plan for the payment for health services provided by contract by an employer to a group of employees;

28 F. Coverage provided by any government-sponsored or government-funded medical assistance or insurance program including, but not limited to, Veterans' Administration health and hospitals programs, Medicare, Medicaid and the Maine Health Program; and

30 G. Any other plan or program of health coverage that provides direct services or payment for services rendered in the diagnosis or treatment of any physical or mental condition, including any plan that is self-funded or self-insured.

32 2. "Preexisting condition exclusion" means any exclusion of benefits for a specified or indefinite period of time, on the basis of one or more physical or mental conditions for which an enrollee was diagnosed or treated prior to the effective date of enrollment.

2           3. "Waiting period" means a period of time after the  
3           effective date of enrollment during which a health insurance plan  
4           excludes coverage for the diagnosis or treatment of any or all  
5           medical conditions.

6           **§2347. Continuity of health insurance coverage**

8           In a contract between a subscriber and a nonprofit hospital  
9           or medical service organization, the nonprofit hospital or  
10           medical service organization may not request that a person  
11           provide or otherwise seek to obtain evidence of insurability,  
12           decline to enroll an otherwise eligible person on the basis of  
13           evidence of insurability, or impose a preexisting condition  
14           exclusion period or waiting period upon any enrollee if the  
15           enrollee or other person was covered by a health plan, as defined  
16           in section 2346, for a continuous period of 90 days ending within  
17           3 months prior to the date the person enrolls or would otherwise  
18           be eligible to enroll. A period of ineligibility for any health  
19           plan imposed by terms of employment may not be considered in  
20           determining whether a person has been covered continuously for a  
21           period of 90 days or whether the period ended within 3 months  
22           prior to the date the person enrolls or would otherwise be  
23           eligible to enroll.

24           **§2348. Limitations on waiting period**

26           1. A contract between a subscriber and a nonprofit hospital  
27           or medical service organization may not impose on any enrollee or  
28           person seeking to enroll an ineligibility period based on  
29           evidence of insurability, a preexisting condition exclusion  
30           period or waiting period, of more than 3 months from the date the  
31           person enrolls or would otherwise be eligible to enroll.

34           2. A contract between a subscriber and a nonprofit hospital  
35           or medical service organization may not impose on any enrollee or  
36           person seeking to enroll, an ineligibility period based on  
37           evidence of insurability, a preexisting condition exclusion  
38           period or waiting period, except on the basis of a mental or  
39           physical condition for which the person was diagnosed or treated  
40           in the 3 months prior to the date the person enrolls or would  
41           otherwise be eligible to enroll.

42           3. An ineligibility period, preexisting condition exclusion  
43           period or waiting period imposed by any contract between a  
44           subscriber and a nonprofit hospital or medical service  
45           organization must be diminished by the period of time, if any,  
46           that an enrollee has been continuously enrolled in any health  
47           plan, as defined in section 2346, if that continuous period of  
48           coverage ends within 3 months prior to the date the person  
49           enrolls or would otherwise be eligible to enroll. An  
50           ineligibility period for any health plan imposed by terms of  
51           employment may not be considered in determining whether a person  
52           is eligible to enroll.

2 has been covered continuously for a period or whether the period  
3 ended within 3 months prior to the date the person enrolls or  
4 would otherwise be eligible to enroll.

6 **§2349. Limitations on reinsurance**

8 A nonprofit hospital or medical service organization may not  
9 provide reinsurance, excess insurance coverage or administrative  
10 services, that involve any assumption of risk, to a health plan  
11 as defined in section 2346 if that plan requires that a person  
12 provide evidence of insurability, imposes a preexisting condition  
13 exclusion period or waiting period under any circumstances in  
14 which a nonprofit hospital or medical service organization  
15 contract may not impose those conditions under section 2347 or  
16 2348.

18 **Sec. 2. 24-A MRSA §2680 is enacted to read:**

20 **§2680. Continuity of health insurance coverage**

22 A preferred provider arrangement may not require that a  
23 beneficiary provide evidence of insurability, impose an  
24 ineligibility period based on evidence of insurability or impose  
25 a preexisting condition exclusion period or waiting period under  
26 any circumstances in which a health insurance policy may not  
27 impose those conditions under sections 2848 to 2850.

28 **Sec. 3. 24-A MRSA §2804, sub-§3, as repealed and replaced by**  
29 **PL 1981, c. 147, §2, is repealed.**

30 **Sec. 4. 24-A MRSA §2805, sub-§3, as repealed and replaced by**  
31 **PL 1981, c. 147, §3, is repealed.**

32 **Sec. 5. 24-A MRSA §2805-A, sub-§4, as enacted by PL 1981, c.**  
33 **147, §4, is repealed.**

34 **Sec. 6. 24-A MRSA §2806, sub-§3, as repealed and replaced by**  
35 **PL 1981, c. 147, §5, is repealed.**

36 **Sec. 7. 24-A MRSA §2807-A, sub-§3, as enacted by PL 1981, c.**  
37 **147, §7, is repealed.**

38 **Sec. 8. 24-A MRSA §2808, sub-§4, as enacted by PL 1981, c.**  
39 **147, §8, is repealed.**

40 **Sec. 9. 24-A MRSA c. 36 is enacted to read:**

42 **CHAPTER 36**

44 **CONTINUITY OF HEALTH INSURANCE**

46 **§2848. Definitions**

2           As used in this chapter, unless the context indicates  
4           otherwise, the following terms have the following meanings.

6           1. "Health plan" means any of the following, within or  
8           without the State, that provides direct services or payment for  
          services rendered in the diagnosis or treatment of any physical  
          or mental condition:

10           A. A group or blanket policy of health insurance as  
          described in chapter 35;

12           B. An individual health insurance contract as described in  
14           chapter 33;

16           C. A contract between a subscriber and a nonprofit hospital  
18           or medical service organization described in Title 24,  
          chapter 19;

20           D. A health maintenance contract issued by a health  
          maintenance organization as defined in section 4202;

22           E. A plan for the payment for health services provided by  
24           contract by an employer to a group of employees;

26           F. Coverage provided by any government-sponsored or  
28           government-funded medical assistance or insurance program  
30           including, but not limited to, Veterans' Administration  
          health and hospitals programs, Medicare, Medicaid, and the  
          Maine Health Program; and

32           G. Any other plan or program of health coverage which  
34           provides direct services or payment for services rendered in  
36           the diagnosis or treatment of any physical or mental  
          condition, including any plan which is self-funded or  
          self-insured.

38           2. "Preexisting condition exclusion" means any exclusion of  
40           benefits for a specified or indefinite period of time, on the  
42           basis of one or more physical or mental conditions for which an  
          enrollee was diagnosed or treated prior to the effective date of  
          enrollment.

44           3. "Waiting period" means a period of time after the  
46           effective date of enrollment during which a health insurance plan  
48           excludes coverage for the diagnosis or treatment of any or all  
          medical conditions.

50           **§2849. Continuity of health insurance coverage**

52           1. In an individual or group health insurance policy  
          described in chapter 33 or 35 an insurer or employee may not

2 request that a person provide or otherwise seek to obtain  
3 evidence of insurability, decline to enroll an otherwise eligible  
4 person on the basis of evidence of insurability, or impose a  
5 preexisting condition exclusion period or waiting period upon any  
6 enrollee if the enrollee or other person was covered by a health  
7 plan as defined in section 2848, for more than 90 consecutive  
8 days ending within 3 months prior to the date the person enrolls,  
9 or would otherwise be eligible to enroll. An ineligibility  
10 period for any health plan imposed by terms of employment may be  
11 considered in determining whether a person has been covered  
12 continuously for a period of 90 days or whether the period ended  
13 within 3 months prior to the date the person enrolls or would  
14 otherwise be eligible to enroll.

15 2. An insurer may not provide reinsurance, excess insurance  
16 coverage or administrative services, that involve any assumption  
17 of risk, to a health plan as defined in section 2848 if the plan  
18 requires that a person provide evidence of insurability, imposes  
19 an ineligibility period based on evidence of insurability or  
20 imposes any preexisting condition exclusion period or waiting  
21 period under any circumstances in which a health insurance policy  
22 may not impose these conditions under subsection 1 or section  
23 2850.

24 **§2850. Limitations on waiting periods**

25 1. A group or individual health insurance policy subject to  
26 chapter 33 or 35 may not impose on any enrollee or person seeking  
27 to enroll an ineligibility period based on evidence of  
28 insurability, a preexisting condition exclusion period or waiting  
29 period, of more than 3 months from the date the person enrolls or  
30 would otherwise be eligible to enroll.

31 2. A group or individual health insurance policy subject to  
32 chapter 33 or 35 may not impose on any enrollee or person seeking  
33 to enroll an ineligibility period based on evidence of  
34 insurability, a preexisting condition exclusion period or a  
35 waiting period except on the basis of a mental or physical  
36 condition for which the person was diagnosed or treated in the 3  
37 months prior to the date the person enrolls or would otherwise be  
38 eligible to enroll.

39 3. An ineligibility period, preexisting condition exclusion  
40 period or waiting period imposed by a health insurance policy is  
41 diminished by the period of time, if any, that an enrollee has  
42 been continuously covered by any health plan, as defined in  
43 section 2848, if that continuous coverage ends within 3 months  
44 prior to the date the person enrolls or would otherwise be  
45 eligible to enroll. An ineligibility period for any health plan  
46 imposed by terms of employment may not be considered in  
47 determining whether a person has been covered continuously for a  
48 period of more than 3 months from the date the person enrolls or  
49 would otherwise be eligible to enroll.

2 period or whether the period ended within 3 months prior to the  
3 date the person enrolls or would otherwise be eligible to enroll.

4 **Sec. 10. 24-A MRSA §4210, sub-§3** is enacted to read:

6 3. Notwithstanding subsection 1 or 2, a health maintenance  
7 organization may not require that a person provide evidence of  
8 insurability, impose an ineligibility period based on evidence of  
9 insurability or impose any preexisting condition exclusion period  
10 or waiting period under any circumstances in which a health  
11 insurance policy may not impose such conditions under sections  
12 2848 to 2850.

14 **Sec. 11. Applicability.** This Act applies to all policies,  
15 contracts and certificates executed, delivered, issued for  
16 delivery, continued or renewed in this State on or after the  
17 effective date of this Act. For purposes of this Act, all  
18 contracts are deemed to be renewed no later than the next yearly  
19 anniversary of the contract date.

## 22 STATEMENT OF FACT

24 This bill provides that health insurance plans may not  
25 impose preexisting condition screening, exclusions, or waiting  
26 periods when an individual or group switches from one plan to  
27 another. Section one provides that a nonprofit hospital and  
28 medical service organizations may not require evidence of  
29 insurability, impose a preexisting exclusion or waiting period to  
30 an individual who has had continuous coverage under another plan  
31 for 90 days or more ending within 3 months of application for new  
32 coverage. For any individual, preexisting condition exclusions  
33 are limited to 3 months, must be limited to conditions diagnosed  
34 or treated within the last 3 months, and must "credit" any time  
35 under a previous health plan or waiting period. Section 2  
36 applies the same requirements to preferred provider  
37 arrangements. Section 9 applies the same restrictions to  
38 commercial health insurance policies. Section 10 applies the  
39 same restrictions to health maintenance organizations.  
40