

# 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)

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 507, L.D. 701, Bill, "An Act to Provide Community Rating of Health Insurance Providers"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 24 MRSA §2327-A, as enacted by PL 1989, c. 422, §1, is amended to read:

§2327-A. Rating practices in group health insurance

Title 24-A, ~~sections~~ sections 2808-A and 2808-B, ~~shall~~ apply to nonprofit hospital corporations, nonprofit medical service corporations and nonprofit health care plans to the extent not inconsistent with this chapter.

Sec. 2. 24-A MRSA §2808-A, as amended by PL 1991, c. 353, is further amended to read:

§2808-A. Rating practices in group health insurance

1. Groups with fewer than 25 members. Except as provided in subsection 3, no insurer may ~~increase~~ charge group health insurance premium rates for a ~~group~~ groups with fewer than 25 insured members, excluding dependents, ~~on the basis of that vary based on~~ the claims experience of ~~that~~ the group.

2. Subgroups; rate differentiation. Except as provided in subsection 3, no insurer may ~~increase~~ charge group health insurance premium rates on a basis which that discriminates between different subgroups of a group according to the claims

2 experience of the subgroup. The term "subgroup," as used in this  
3 section, refers to an employer with fewer than 25 insured  
4 employees within a multiple employer trust, or to any similar  
5 subdivision of a larger group covered by a single group health  
6 insurance policy or contract.

7 **3. Tiers of rates allowed.** Groups Except as provided in  
8 paragraph C, groups or subgroups subject to subsection 1 or 2 may  
9 be divided into 2 or more tiers for rating purposes based on the  
10 experience of the group or subgroup provided that the following  
11 conditions are satisfied.

12  
13 A. The rates for the highest tier may not exceed the  
14 average rate for all tiers by more than 20%.

15 B. At the time of application, the insurer must provide to  
16 the prospective policyholder a prominent disclosure  
17 indicating that premium rates may change based on the claims  
18 experience of the group or subgroup. If the policyholder is  
19 a multiple employer trust, the policyholder must provide  
20 this disclosure to each employer at the time of application  
21 to the trust. For multiple employer trusts in existence on  
22 January 1, 1990, this disclosure procedure must be completed  
23 prior to the first subsequent renewal.

24  
25 C. Exceptions to subsections 1 and 2 do not apply to  
26 policies executed, delivered, issued for delivery, continued  
27 or renewed on or after July 15, 1993.

28  
29 **4. Applicability.** This section applies to all policies  
30 executed, delivered, issued for delivery, continued or renewed in  
31 this State on or after January 1, 1990. It applies to any  
32 certificates delivered to residents of this State under a group  
33 health insurance policy described in section 2805-A, 2806 or 2808  
34 and executed, continued or renewed on or after January 1, 1990.  
35 For purposes of this section, all contracts shall ~~be~~ are deemed  
36 ~~to be~~ renewed no later than the next yearly anniversary of the  
37 contract date.

38  
39 **5. Sunset.** ~~Unless continued or modified by law, this~~ This  
40 section is repealed on ~~October 1, 1992~~ July 15, 1993.

41  
42 **Sec. 3. 24-A MRSA §2808-B** is enacted to read:

43  
44 **§2808-B. Small group health plans**

45  
46 **1. Definitions.** As used in this section, unless the  
47 context otherwise indicates, the following terms have the  
48 following meanings.

COMMITTEE AMENDMENT "B" to H.P. 507, L.D. 701

2           A. "Carrier" means any insurance company, nonprofit  
4           hospital and medical service organization or health  
6           maintenance organization authorized to issue small  
8           group health plans in this State. For the purposes of  
10           this section, carriers that are affiliated companies or  
12           that are eligible to file consolidated tax returns are  
14           treated as one carrier and any restrictions or  
16           limitations imposed by this section apply as if all  
          small group health plans delivered or issued for  
          delivery in this State by affiliated carriers were  
          issued by one carrier. For purposes of this section,  
          health maintenance organizations are treated as  
          separate organizations from affiliated insurance  
          companies and nonprofit hospital and medical service  
          organizations.

18           B. "Community rate" means the rate to be charged to  
20           all eligible groups for small group health plans prior  
22           to any adjustments pursuant to subsection 2, paragraphs  
          C and D.

24           C. "Eligible employee" means an employee who works on  
26           a full-time basis, with a normal work week of 30 hours  
28           or more. "Eligible employee" includes a sole  
          proprietor, a partner of a partnership or an  
          independent contractor, but does not include employees  
          who work on a part-time, temporary or substitute basis.

30           D. "Eligible group" means any person, firm,  
32           corporation, partnership or association engaged  
34           actively in a business that during at least 50% of its  
36           working days in the preceding calendar quarter employed  
38           fewer than 25 eligible employees, the majority of whom  
40           are employed within the State. In determining the  
42           number of eligible employees, companies that are  
          affiliated companies or that are eligible to file a  
          combined tax return for purposes of state taxation are  
          considered one employer. In the calculation of carrier  
          percentage participation requirements, eligible  
          employees and their dependents who have existing health  
          care coverage may not be considered in the calculation.

44           E. "Late enrollee" means an eligible employee or  
46           dependent who requests enrollment in a small group  
48           health plan following the initial minimum 30-day  
          enrollment period provided under the terms of the plan,  
          except that, an eligible employee or dependent is not

2 considered a late enrollee if the eligible employee or  
3 dependent meets the requirements of section 2849-B,  
4 subsection 3, paragraph A or B.

6 F. "Premium rate" means the rate charged to an  
7 eligible group or eligible individual for a small group  
8 health plan.

10 G. "Small group health plan" means any hospital and  
11 medical expense-incurred policy; health, hospital or  
12 medical service corporation plan contract; or health  
13 maintenance organization subscriber contract. "Small  
14 group health plan" does not include the following types  
15 of insurance:

- 16 (1) Accident;
- 18 (2) Credit;
- 20 (3) Disability;
- 22 (4) Long-term care or nursing home care;
- 24 (5) Medicare supplement;
- 26 (6) Specified disease;
- 28 (7) Dental or vision;
- 30 (8) Coverage issued as a supplement to liability  
31 insurance;
- 32 (9) Workers' compensation;
- 34 (10) Automobile medical payment; or
- 36 (11) Insurance under which benefits are payable  
37 with or without regard to fault and that is  
38 required statutorily to be contained in any  
39 liability insurance policy or equivalent  
40 self-insurance.

42 2. Rating practices. The following requirements apply to  
43 the rating practices of carriers providing small group health  
44 plans.

46 A. A carrier issuing a small group health plan after the  
47 effective date of this section must file the carrier's  
48 community rate and any formulas and factors used to adjust

COMMITTEE AMENDMENT "B" to H.P. 507, L.D. 701

2 that rate under paragraphs C and D with the superintendent  
4 for informational purposes prior to issuance of any small  
6 group health plan.

8 B. A carrier may not vary the premium rate due to the  
10 health status, claims experience or policy duration of the  
12 eligible group.

14 C. A carrier may vary the premium rate due to family  
16 status, smoking status, participation in wellness programs  
18 and group size.

20 D. A carrier may vary the premium rate due to age, gender,  
22 occupation or industry, and geographic area only under the  
24 following schedule and within the listed percentage bands:

26 (1) For all policies, contracts or certificates that  
28 are executed, delivered, issued for delivery, continued  
30 or renewed in this State between July 15, 1993 and July  
32 14, 1994, the premium rate may not deviate above or  
34 below the community rate filed by the carrier by more  
36 than 60%.

38 (2) For all policies, contracts or certificates that  
40 are executed, delivered, issued for delivery, continued  
42 or renewed in this State between July 15, 1994 and July  
44 14, 1995, the premium rate may not deviate above or  
46 below the community rate filed by the carrier by more  
48 than 33%.

(3) For all policies, contracts or certificates that  
are executed, delivered, issued for delivery, continued  
or renewed in this State between July 15, 1995 and July  
14, 1996, the premium rate may not deviate above or  
below the community rate filed by the carrier by more  
than 20%.

(4) For all policies, contracts or certificates that  
are executed, delivered, issued for delivery, continued  
or renewed in this State between July 15, 1996 and July  
14, 1997, the premium rate may not deviate above or  
below the community rate filed by the carrier by more  
than 10%.

(5) For all policies, contracts or certificates that  
are executed, delivered, issued for delivery, continued  
or renewed in this State on or after July 15, 1997, the  
premium rate may not deviate from the community rate  
filed by the carrier.

**COMMITTEE AMENDMENT**

2           E. The superintendent may exempt from the requirements of  
3           this section an association group organized pursuant to  
4           section 2805-A or a trustee group organized pursuant to  
5           section 2806 that offers a small group health plan that  
6           complies with the premium rate requirements of this section  
7           and guarantees issuance and renewal to all persons and their  
8           dependents within the association or trustee group.

10           3. Coverage for late enrollees. In providing coverage to  
11           late enrollees, small group health plan carriers are allowed to  
12           exclude a late enrollee for 18 months or provide coverage subject  
13           to an 18-month preexisting conditions exclusion.

14           4. Guaranteed issuance and guaranteed renewal. Carriers  
15           providing small group health plans must meet the following  
16           requirements on issuance and renewal.

17           A. Coverage must be guaranteed to all eligible groups that  
18           meet the carrier's minimum participation requirements, which  
19           may not exceed 75%, to all eligible employees and their  
20           dependents in those groups.

21           B. Renewal must be guaranteed to all eligible groups, to all  
22           eligible employees and their dependents in those groups  
23           except:

24                   (1) For nonpayment of the required premiums by the  
25                   policyholder, contract holder or employer;

26                   (2) For fraud or material misrepresentation by the  
27                   policyholder, contract holder or employer;

28                   (3) With respect to coverage of eligible individuals,  
29                   for fraud or material misrepresentation on the part of  
30                   the individual or the individual's representative;

31                   (4) For noncompliance with the carrier's minimum  
32                   participation requirements, which may not exceed 75%;  
33                   and

34                   (5) When the carrier ceases providing small group  
35                   health plans in compliance with subsection 5.

36           5. Cessation of business. Carriers that provide small  
37           group health plans after the effective date of this section that  
38           plan to cease doing business in the small group health plan  
39           market must comply with the following requirements.

COMMITTEE AMENDMENT "B" to H.P. 507, L.D. 701

- 2           A. Notice of the decision to cease doing business in that  
4           market must be provided to the bureau and to the  
            policyholder or contract holder 6 months prior to nonrenewal.
- 6           B. Carriers that cease to write new business in that market  
8           continue to be governed by this section with respect to  
            business conducted under this section.
- 10          C. Carriers that cease to write new business in that market  
12          are prohibited from writing new business in that market for  
14          a period of 5 years from the date of notice to the  
            superintendent.
- 16          6. Fair marketing standards. Carriers providing small  
18          group health plans must meet the following standards of fair  
            marketing.
- 20          A. Each carrier must actively market small group health  
            plan coverage to eligible groups in this State.
- 22          B. A carrier or representative of the carrier may not  
24          directly or indirectly engage in the following activities:
- 26                 (1) Encouraging or directing eligible groups to  
28                 refrain from filing an application for coverage with  
               the carrier because of any of the rating factors listed  
               in subsection 2; and
- 30                 (2) Encouraging or directing eligible groups to seek  
32                 coverage from another carrier because of any of the  
               rating factors listed in subsection 2.
- 34          C. A carrier may not directly or indirectly enter into any  
36          contract, agreement or arrangement with a representative of  
38          the carrier that provides for or results in the compensation  
40          paid to the representative for the sale of a small group  
42          health plan to be varied because of the rating factors  
44          listed in subsection 2. A carrier may enter into a  
            compensation arrangement that provides compensation to a  
            representative of the carrier on the basis of percentage of  
            premium; provided that the percentage does not vary because  
            of the rating factors listed in subsection 2.
- 46          D. A carrier may not terminate, fail to renew or limit its  
48          contract or agreement of representation with a  
            representative for any reason related to the rating factors  
            listed in subsection 2.



2           E. A carrier or representative of the carrier may not  
4           induce or otherwise encourage an eligible group to separate  
          or otherwise exclude an employee from small group health  
6           plan coverage or benefits.

8           F. Denial by a carrier of an application for coverage from  
          an eligible group must be in writing and must state the  
10           reason or reasons for the denial.

12           G. The superintendent may establish rules setting forth  
          additional standards to provide for the fair marketing and  
14           broad availability of small group health plans in this State.

16           H. A violation of this section by a carrier or a  
          representative of the carrier is an unfair trade practice  
18           under chapter 23. If a carrier enters into a contract,  
          agreement or other arrangement with a 3rd-party  
20           administrator to provide administrative, marketing or other  
          services related to the offering of small group health plans  
22           in this State, the 3rd-party administrator is subject to  
          this section as if it were a carrier.

24           7. Applicability. This section applies to all policies,  
          plans, contracts and certificates executed, delivered, issued for  
26           delivery, continued or renewed in this State on or after July 15,  
          1993. For purposes of this section, all contracts are deemed  
28           renewed no later than the next yearly anniversary of the contract  
          date.

30           8. Sunset. Unless continued or modified by law, this  
32           section is repealed on July 15, 1994.

34           **Sec. 4. 24-A MRSA §4222, sub-§4 is enacted to read:**

36           4. Section 2808-B applies to health maintenance  
          organizations except that a health maintenance organization is  
38           not required to offer coverage or accept applications from an  
          eligible group located outside the health maintenance  
40           organization's approved service area.

42           **Sec. 5. Effective date.** The portions of this Act that amend the  
44           Maine Revised Statutes, Title 24, section 2327-A and Title 24-A,  
          section 4222, subsection 4 take effect on July 15, 1993.

46           **Sec. 6. Report.** The Bureau of Insurance shall report to the  
48           joint standing committee of the Legislature having jurisdiction  
          over insurance matters on or before January 1, 1993, on the  
          following issues:

2 1. Standard and basic health insurance plans that include  
4 health insurance mandates;

6 2. Guaranteed issuance and renewability of health insurance  
and their applicability with and without standardized plans;

8 3. Data collection regarding health insurance coverage and  
10 employer practices for employers of fewer than 25 employees and  
the self-employed;

12 4. Wellness programs designed for introduction at places of  
14 employment, their usage and effect, any use being made of them in  
rating by carriers and a definition for them for statutory  
16 enactment; and

18 5. Alternative models for risk sharing in the issuance of  
small group health plans. In developing alternative models, the  
20 Bureau of Insurance shall consult with insurers, nonprofit  
hospital and medical service organizations, representatives of  
22 businesses and consumer groups and other interested parties. The  
alternative models must include provisions allowing carriers to  
24 determine whether they will or will not participate in the  
risk-sharing mechanism and must be based on the principle that  
26 the carriers that participate in the risk-sharing mechanism bear  
the costs for the obligations of the risk-sharing mechanism.

28 **Sec. 7. Allocation.** The following funds are allocated from  
Other Special Revenue to carry out the purposes of this Act.

30  
32 1992-93

34 **PROFESSIONAL AND FINANCIAL REGULATION,  
DEPARTMENT OF**

36 **Bureau of Insurance**

38 All Other \$70,000

40 Provides funds for consulting services to  
42 assist the Bureau of Insurance with a report  
on several health insurance issues.

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46

**FISCAL NOTE**

**1992-93**

**APPROPRIATIONS/ALLOCATIONS**

Other Funds \$70,000

The Bureau of Insurance will require an allocation of available Other Special Revenue in the amount of \$70,000 in fiscal year 1992-93 for one-time consulting services necessary to assist the bureau in preparing the report specified in section 6 of the bill.'

**STATEMENT OF FACT**

This amendment is the minority report of the joint standing committee of the Legislature having jurisdiction over banking and insurance matters and it accomplishes the following.

1. It makes the rating sections applicable to nonprofit hospital and medical service corporations and to nonprofit health care plans.

2. It amends tier rating so that rating on claims experience of groups and subgroups may occur only until July 15, 1993.

3. With respect to health plans issued to employer-based groups of fewer than 25 people and the self-employed, it enacts community rating on a gradual schedule, using a band that extends from 60% down to 0 by July 15, 1997. It forbids rating based upon health status, claims experience or duration of the policy of the group. It allows rating without limitation based upon group size, smoking status, family status and participation in wellness programs.

4. It requires guaranteed issuance and guaranteed renewal of small group health plans, with exceptions for nonpayment, fraud and going out of business.

5. It applies these provisions to health maintenance organizations but does not require the issuance or renewal of health maintenance organization coverage to groups outside the health maintenance organization's approved service area.

COMMITTEE AMENDMENT "B" to H.P. 507, L.D. 701

2           6. It requires a report from the Bureau of Insurance on  
4 standard and basic health plans, guaranteed issuance and renewal,  
6 data collection on employer health coverage, wellness programs  
and alternative models for risk sharing in the small group health  
market.

8           7. It contains fair marketing standards for small group  
health plans.

10           8. The community rating section of the bill, the Maine  
12 Revised Statutes, Title 24-A, section 2808-B, contains a sunset  
14 provision that will repeal the section on July 15, 1994.

16           9. This amendment also adds a fiscal note to the bill.

Reported by the Minority of the Committee on Banking and Insurance  
Reproduced and distributed under the direction of the Clerk of the  
House  
3/2/92

(Filing No. H-1008)

**COMMITTEE AMENDMENT**