

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2203

H.P. 1565

House of Representatives, January 23, 1992

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

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 CARLETON of Wells.

Cosponsored by Representative HASTINGS of Fryeburg, Senator THERIAULT of Aroostook and Senator BRAWN of Knox.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Amend the Laws Concerning Continuity of Health Insurance.



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

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Sec. 1. 24 MRSA §2346, sub-§1-A is enacted to read:

1-A. Evidence of individual insurability. "Evidence of individual insurability" means medical information or other information that indicates health status, such as whether the individual is actively at work, used to determine whether coverage of an individual within the group is to be limited or excluded.

Sec. 2. 24 MRSA §2347, sub-§1, as enacted by PL 1989, c. 867, §1 and affected by §10, is amended to read:

1. **Contracts subject to this section.** Notwithstanding any other provision of law, this section applies to all group contracts, except group long-term care policies as defined in Title 24-A, section 5051, issued by nonprofit hospital or medical service organizations to contract holders who are obtaining coverage for a group or subgroup to replace coverage under a different contract or policy issued by any insurer, health maintenance organization or nonprofit hospital or medical service organization. For purposes of this section, the group contract issued to replace the prior contract or policy is the "replacement contract." The group contract or policy being replaced is the "replaced contract or policy."

Sec. 3. 24 MRSA §2347, sub-§3, ¶A, as enacted by PL 1989, c. 867, §1 and affected by §10, is amended to read:

A. Request that the person provide or otherwise seek to obtain evidence of individual insurability. This in no way limits the insurer's right to require information concerning the health of the individuals in the group to determine if the group as a whole is insurable or to determine rates for the group as a whole;

Sec. 4. 24 MRSA §2349, sub-§3, ¶A, as enacted by PL 1989, c. 867, §1 and affected by §10, is amended to read:

A. The request for enrollment is made within 30 days after termination of coverage under a prior contract or policy and the individual did not request coverage initially under the succeeding contract because that individual was covered under a prior contract or policy and coverage under that contract or policy ceased due to termination of employment, termination of the group policy or group contract under which the individual was covered, death of a spouse or divorce; or

Sec. 5. 24-A MRSA §§2847-A, 2847-B and 2847-C are enacted to read:

2 **§2847-A. Penalty for failure to notify of hospitalization**

4 An insurance policy may not include a provision permitting
6 the insurer to impose a penalty for the failure of any person to
8 notify the insurer of an insured person's hospitalization for
 emergency treatment. For purposes of this section, "emergency
 treatment" has the same meaning as defined in Title 22, section
 1829.

10 This section applies to policies and certificates executed,
12 delivered, issued for delivery, continued or renewed in this
14 State after the effective date of this section. For purposes of
 this section, all policies are deemed to be renewed no later than
 the next yearly anniversary of the contract date.

16 **§2847-B. Jury service**

18 1. Prohibition. An insurer that issues group or blanket
20 health care contracts providing coverage for medical care to
22 residents of this State may not terminate coverage for any person
24 covered under those contracts because the person has been
 summonsed for or is engaged in jury service under Title 14,
 chapter 305, subchapter I-A.

26 2. Application. This section applies to all policies and
28 any certificate executed, delivered, issued for delivery,
30 continued or renewed in this State on or after January 1, 1991.
32 For purposes of this section, all contracts are deemed to be
 renewed no later than the next yearly anniversary of the contract
 date.

34 **§2847-C. Notification prior to cancellation**

36 The superintendent shall, by January 1, 1991, adopt rules to
38 provide for notification of the insured person and another
40 person, if designated by the insured, prior to cancellation of a
 health insurance certificate for nonpayment of premiums, and to
 provide restrictions on cancellation when an insured person
 suffers from organic brain disease.

42 The rules may include, but are not limited to, definitions,
44 minimum disclosure requirements, notice provisions and
 cancellation restrictions.

46 The requirements of this section apply to all policies and
48 certificates executed, delivered, issued for delivery, continued
 or renewed in this State.

50 Sec. 6. 24-A MRSA §2848, as enacted by PL 1989, c. 767, §4;
52 c. 801, §3; and c. 867, §8 and affected by §10, is repealed and
 the following enacted in its place:

2 **§2848. Definitions**

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

8 **1. Evidence of individual insurability.** "Evidence of
10 individual insurability" means medical information or other
12 information that indicates health status, such as whether the
 individual is actively at work, used to determine whether
 coverage of an individual within the group is to be limited or
 excluded.

14 **2. Group.** "Group" means any of the types of groups under
16 sections 2804 to 2808.

18 **3. Preexisting condition exclusion.** "Preexisting condition
20 exclusion" means an exclusion of benefits for a specified or
 indefinite period of time on the basis of one or more physical or
 mental conditions for which, preceding the effective date of
 enrollment:

22 A. A person experienced symptoms that would cause an
24 ordinarily prudent person to seek diagnosis, care or
 treatment; or

26 B. A provider of health care services recommended or
28 provided medical advice or treatment to the person.

30 **4. Subgroup.** "Subgroup" means an employer covered under a
32 contract issued to a multiple employer trust or to an association.

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

38 **Sec. 7. 24-A MRSA §2849**, as enacted by PL 1989, c. 835, §3
40 and c. 867, §8 and affected by §10, is repealed and the following
 enacted in its place:

42 **§2849. Continuity on replacement of group policy**

44 **1. Policies subject to this section.** Notwithstanding any
46 other provision of law, this section applies to all group medical
48 insurance policies issued by insurers or health maintenance
50 organizations to policyholders who are obtaining coverage for a
52 group or subgroup to replace coverage under a different contract
 or policy issued by any nonprofit hospital or medical service
 organization, insurer or health maintenance organization. For
 purposes of this section, the group policy issued to replace the
 prior contract or policy is the "replacement policy." The group

2 contract or policy being replaced is the "replaced contract or
policy."

4 2. Persons provided continuity of coverage under this
section. This section provides continuity of coverage to persons
6 who were covered under the replaced contract or policy at any
time during the 90 days before the discontinuance of the replaced
8 contract or policy.

10 3. Prohibition against discontinuity. In a replacement
policy subject to this section, an insurer or health maintenance
12 organization may not, for any person described in subsection 2:

14 A. Request that the person provide or otherwise seek to
obtain evidence of individual insurability. This in no way
16 limits the insurer's right to require information concerning
the health of the individuals in the group to determine
18 whether the group as a whole is insurable or to determine
rates for the group as a whole;

20 B. Decline to enroll the person on the basis of evidence of
22 insurability if the person is otherwise eligible for
coverage; or

24 C. Impose a preexisting condition exclusion period or
26 waiting period on that person, except as provided in this
28 section.

30 4. Persons covered for fewer than 90 continuous days.
Notwithstanding subsection 3, a person who was covered under the
32 replaced contract or policy for fewer than 90 continuous days may
be subject to a preexisting condition exclusion or waiting period
34 in the replacement policy, provided the period is not longer than
90 days, and credit is given for satisfaction or partial
36 satisfaction of the same or similar provisions under the replaced
contract or policy.

38 5. Liability after discontinuance. The nonprofit hospital
or medical service organization, insurer or health maintenance
40 organization that issued the replaced contract or policy is
liable after discontinuance of that contract or policy only to
42 the extent of its accrued liabilities and extensions of benefits.

44 **Sec. 8. 24-A MRSA §2849-B, sub-§1, as enacted by PL 1989, c.**
46 **867, §8 and affected by §10, is amended to read:**

48 **1. Policies subject to this section. This section applies**
to all group medical insurance policies issued by insurers or
50 **health maintenance organizations, ~~except group long term care~~**
policies ~~as defined in section 5051 and group long term~~
52 **disability policies.**

