

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

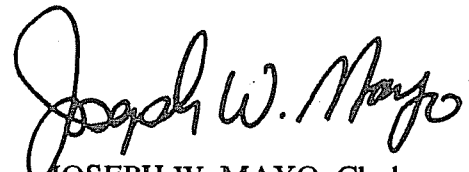
No. 1980

H.P. 1451

House of Representatives, March 15, 1994

An Act to Make Maine Law Consistent with the Federal Law Regarding the Omnibus Budget Reconciliation Act of 1993 and to Clarify Maine Laws Regarding Underwriting and Continuity.

Received by the Clerk of the House on March 11, 1994. Referred to the Committee on Banking and Insurance and 1200 ordered printed pursuant to Joint Rule 14.


JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells. (GOVERNOR'S BILL)

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

PART A

Sec. A-1. 24 MRSA §2318, sub-§1, as enacted by PL 1991, c. 200, Pt. B, §1, is repealed and the following enacted in its place:

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dependent children" means children who are under 19 years of age and are children, stepchildren or adopted children of, or children placed for adoption with, the subscriber, member or spouse of the subscriber or member.

B. "Placed for adoption" means the assumption and retention of a legal obligation by a person for the total or partial support of a child in anticipation of adoption of the child. If the legal obligation ceases to exist, the child is no longer considered placed for adoption.

Sec. A-2. 24 MRSA §2318, sub-§5 is enacted to read:

5. Adopted children. All individual or group contracts issued in accordance with the requirements of this section must provide the same benefits to dependent children placed for adoption with the subscriber or spouse of the subscriber under the same terms and conditions as apply to natural dependent children or stepchildren of the subscriber or spouse of the subscriber, irrespective of whether the adoption has become final.

Sec. A-3. 24-A MRSA §2742, sub-§1, as enacted by PL 1991, c. 200, Pt. B, §3, is repealed and the following enacted in its place:

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dependent children" means children who are under 19 years of age and are children, stepchildren or adopted children of, or children placed for adoption with the policyholder, member or spouse of the policyholder or member.

B. "Placed for adoption" means the assumption and retention of a legal obligation by a person for the total or partial support of a child in anticipation of adoption of the child. If the legal obligation ceases to exist, the child is no longer considered placed for adoption.

2 **Sec. A-4. 24-A MRSA §2742, sub-§4** is enacted to read:

4 4. **Adopted children.** All individual policies issued in
6 accordance with the requirements of this section must provide the
8 same benefits to dependent children placed for adoption with the
10 policyholder or spouse of the policyholder under the same terms
 and conditions as apply to natural dependent children or
 stepchildren of the policyholder or spouse of the policyholder,
 irrespective of whether the adoption has become final.

12 **Sec. A-5. 24-A MRSA §2833, sub-§1**, as enacted by PL 1991, c.
14 200, Pt. B, §4, is repealed and the following enacted in its
 place:

16 1. **Definitions.** For the purposes of the section, unless
18 the context otherwise indicates, the following terms have the
 following meanings.

20 A. "Dependent children" means children who are under 19
22 years of age and are children, stepchildren or adopted
24 children of, or children placed for adoption with, the
 certificate holder, member or spouse of the certificate
 holder or member.

26 B. "Placed for adoption" means the assumption and retention
28 of a legal obligation by a person for the total or partial
30 support of a child in anticipation of adoption of the
 child. If the legal obligation ceases to exist, the child
 is no longer considered placed for adoption.

32 **Sec. A-6. 24-A MRSA §2833, sub-§4** is enacted to read:

34 4. **Adopted children.** All group or blanket health insurance
36 policies and certificates issued in accordance with the
38 requirements of this section must provide the same benefits to
40 dependent children placed for adoption with the certificate
 holder or spouse of the certificate holder under the same terms
 and conditions as apply to natural dependent children or
 stepchildren of the certificate holder, irrespective of whether
 the adoption has become final.

42 **Sec. A-7. 24-A MRSA §4234, sub-§1**, as enacted by PL 1991, c.
44 200, Pt. B, §5, is repealed and the following enacted in its
46 place:

48 1. **Definitions.** For the purposes of this section, unless
50 the context otherwise indicates, the following terms have the
 following meanings.

52 A. "Dependent children" means children who are under 19
 years of age and are children, stepchildren or adopted

2 children of, or children placed for adoption with, the
3 enrollee, member or spouse of the enrollee or member.

4 B. "Placed for adoption" means the assumption and retention
5 of a legal obligation by a person for the total or partial
6 support of a child in anticipation of adoption of the
7 child. If the legal obligation ceases to exist, the child
8 is no longer considered placed for adoption.

10 Sec. A-8. 24-A MRSA §4234, sub-§4 is enacted to read:

12 4. Adopted children. All individual or group contracts
13 issued in accordance with the requirements of this section must
14 provide the same benefits to dependent children placed for
15 adoption with the enrollee or spouse of the enrollee under the
16 same terms and conditions as apply to natural dependent children
17 or stepchildren of the enrollee or spouse of the enrollee,
18 irrespective of whether the adoption has become final.

20 PART B

22 Sec. B-1. 24 MRSA §2332-A, as amended by PL 1991, c. 200, Pt.
24 B, §2, is repealed and the following enacted in its place:

26 §2332-A. Coordination of benefits

28 1. Authorization. Provisions contained in group and
29 nonprofit hospital, medical service or health care
30 subscriber contracts relating to coordination of benefits payable
31 under the contract and under other plans of insurance or of
32 health care coverage under which the subscriber or the
33 subscriber's dependents may be covered must conform to rules
34 adopted by the superintendent. The rules may establish uniformity
35 in the permissive use of coordination of benefits provisions to
36 ensure that the subscriber receives full benefits for covered
37 medical services, to enhance cost containment through avoidance
38 of windfall payments and to avoid claim delays and
39 misunderstandings that otherwise result from the use of
40 inconsistent or incompatible provisions among the several
41 insurers and nonprofit hospital, medical service and health care
42 plans.

44 2. Medicaid. Nonprofit service organizations may not
45 consider the availability or eligibility for medical assistance
46 under 42 United States Code, Section 13969, referred to as
47 "Medicaid," when considering coverage eligibility or benefit
48 calculations for subscribers and covered family members.

50 A. To the extent that payment for coverage expenses has
51 been made under the Medicaid program for health care items
52 or services furnished to an individual, the State is

2 considered to have acquired the rights of the covered
4 subscriber or family member to payment by the nonprofit
6 service organization for those health care items or
8 services. Upon presentation of proof that the Medicaid
program has paid for covered items or services, the
nonprofit service organization shall make payment to the
Medicaid program according to the coverage provided in the
contract or certificate.

10 B. A nonprofit service organization may not impose
12 requirements on a state agency that has been assigned the
14 rights of an individual eligible for Medicaid and covered by
16 a subscriber contract that are different from requirements
applicable to an agent or assignee of any other covered
individual.

18 **Sec. B-2. 24-A MRSA §2844**, as enacted by PL 1985, c. 526, §2,
is repealed and the following enacted in its place:

20 1. Authorization. Provisions contained in group health
22 insurance contracts relating to coordination of benefits payable
24 under the contract and under other plans of insurance or of
26 health care coverage under which a certificate holder or the
28 certificate holder's dependents may be covered must conform to
30 rules adopted by the superintendent. These rules may establish
uniformity in the permissive use of coordination of benefits
provisions in order to avoid claim delays and misunderstandings
that otherwise result from the use of inconsistent or
incompatible provisions among the several insurers and nonprofit
hospital, medical service and health care plans.

32 2. Medicaid. Insurers may not consider the availability or
34 eligibility for medical assistance under 42 United States Code,
36 Section 13969, referred to as "Medicaid," when considering
coverage eligibility or benefit calculations for insureds and
covered family members.

38 A. To the extent that payment for coverage expenses has
40 been made under the Medicaid program for health care items
42 or services furnished to an individual, the State is
44 considered to have acquired the rights of the insured or
46 family member to payment by the nonprofit service
48 organization for those health care items or services. Upon
presentation of proof that the Medicaid program has paid for
covered items or services, the nonprofit service
organization shall make payment to the Medicaid program
according to the coverage provided in the contract or
certificate.

50 B. An insurer may not impose requirements on a state agency
52 that has been assigned the rights of an individual eligible
for Medicaid and covered by a subscriber contract that are

2 different from requirements applicable to an agent or
3 assignee of any other covered individual.

4 **Sec. B-3. 24-A MRSA §4234, sub-§5** is enacted to read:

6 **5. Medicaid.** Health maintenance organizations may not
7 consider the availability or eligibility for medical assistance
8 under 42 United States Code, Section 13969, referred to as
9 "Medicaid," when considering coverage eligibility or benefit
10 calculations for enrollees and covered family members.

12 A. To the extent that payment for coverage expenses has
13 been made under the Medicaid program for health care items
14 or services furnished to an individual, the State is
15 considered to have acquired the rights of the enrollee or
16 family member to payment by the health maintenance
17 organization for those health care items or services. Upon
18 presentation of proof that the Medicaid program has paid for
19 covered items or services, the health maintenance
20 organization shall make payment to the Medicaid program
21 according to the coverage provided in the contract or
22 certificate.

24 B. A health maintenance organization may not impose
25 requirements on a state agency that has been assigned the
26 rights of an individual eligible for Medicaid and covered by
27 an enrollee contract that are different from requirements
28 applicable to an agent or assignee of any other covered
29 individual.

30
31 **PART C**

32 **Sec. C-1. 24-A MRSA §731-B, sub-§1, ¶C,** as amended by PL 1993,
33 c. 313, §17, is further amended by amending subparagraph (4) to
34 read:

35 (4) In the case of a group of--individuals--that
36 constitutes--a--syndicate--of including incorporated and
37 individual unincorporated alien underwriters, the trust
38 must consist of a trusteed account representing the
39 group's liabilities attributable to business written in
40 the United States and, in addition, include a trusteed
41 surplus of at least \$100,000,000, which must be held
42 jointly for the benefit of United States ceding
43 insurers of any member of the group. An incorporated
44 member of the group may not be engaged in any business
45 other than underwriting as a member of the group and is
46 subject to the same level of solvency regulation and
47 control by the group's domiciliary regulator as are the
48 unincorporated members. The group shall make available
49 to the superintendent an annual certification by the
50

2 group's domiciliary regulator and the independent
3 public accountants of the solvency of each underwriter.

4
5 **PART D**

6 **Sec. D-1. 24 MRSA §2347, sub-§1**, as amended by PL 1991, c.
7 695, §2, is further amended to read:

8
9
10 **1. Contracts subject to this section.** Notwithstanding any
11 other provision of law, this section applies to all group
12 contracts, except group long-term care policies as defined in
13 Title 24-A, section 5051, issued by nonprofit hospital or medical
14 service organizations to contract holders who are obtaining
15 coverage for a group or subgroup to replace coverage under a
16 different contract or policy issued by any insurer, health
17 maintenance organization or nonprofit hospital or medical service
18 organization, or an insured employee benefit plan that provides
19 payment for health services received by employees or their
20 dependents. For purposes of this section, the group contract
21 issued to replace the prior contract or policy is the
22 "replacement contract." The group contract or policy being
23 replaced is the "replaced contract or policy."
24

25 **Sec. D-2. 24 MRSA §2349, sub-§2**, as amended by PL 1993, c.
26 477, Pt. A, §1 and affected by Pt. F, §1, is further amended to
27 read:

28
29 **2. Persons provided continuity of coverage.** Except as
30 provided in subsection 3 and for those persons covered under
31 group contracts that are replaced within the scope of section
32 2347, this section provides continuity of coverage for a person
33 who seeks coverage under an individual or group nonprofit
34 hospital or medical service organization contract if:

35
36 **A.** That person was covered under an individual or group
37 contract or policy issued by any insurer, health maintenance
38 organization, nonprofit hospital or medical service
39 organization, or was covered under an uninsured employee
40 benefit plan that provides payment for health services
41 received by employees and their dependents or a governmental
42 program such as Medicaid, the Maine Health Program, as
43 established in Title 22, section 3189, the Maine High-Risk
44 Insurance Organization, as established in Title 24-A,
45 section 6052, and the Civilian Health and Medical Program of
46 the Uniformed Services, 10 United States Code, Section 1072,
47 Subsection 4. For purposes of this section, the individual
48 or group contract under which the person is seeking coverage
49 is the "succeeding contract." The group or individual
50 contract or policy that previously covered the person is the
51 "prior contract or policy"; and
52

2 B. Coverage under the prior contract or policy terminated
4 within 3 months before the date the person enrolls or is
6 eligible to enroll in the succeeding contract. A period of
8 ineligibility for any health plan imposed by terms of
employment may not be considered in determining whether the
coverage ended within 3 months of the date the person
enrolls or would otherwise be eligible to enroll.

10 **Sec. D-3. 24-A MRSA §2849, sub-§1, as repealed and replaced by
PL 1993, c. 349, §53, is amended to read:**

12 **1. Policies subject to this section.** Notwithstanding any
14 other provision of law, this section applies to all group medical
16 insurance policies issued by insurers or health maintenance
18 organizations to policyholders who are obtaining coverage for a
20 group or subgroup to replace coverage under a different contract
22 or policy issued by any nonprofit hospital or medical service
24 organization, insurer or health maintenance organization, or
under an uninsured employee benefit plan that provides payment
for health services received by employees or their dependents.
For purposes of this section, the group policy issued to replace
the prior contract or policy is the "replacement policy." The
group contract or policy or uninsured employee benefit plan being
replaced is the "replaced contract or policy."

26 **Sec. D-4. 24-A MRSA §2849-B, sub-§2, as amended by PL 1993, c.
28 477, Pt. A, §9 and affected by Pt. F, §1, is further amended to
read:**

30 **2. Persons provided continuity of coverage.** Except as
32 provided in subsection 3, this section provides continuity of
34 coverage for a person who seeks coverage under an individual or a
group insurance policy or health maintenance organization policy
if:

36 A. That person was covered under an individual or group
38 contract or policy issued by any nonprofit hospital or
40 medical service organization, insurer, health maintenance
42 organization, or was covered under an uninsured employee
44 benefit plan that provides payment for health services
46 received by employees and their dependents or a governmental
48 program such as Medicaid, the Maine Health Program, as
50 established in Title 22, section 3189, the Maine High-Risk
Insurance Organization, as established in section 6052 or
52 the Civilian Health and Medical Program of the Uniformed
Services, 10 United States Code, Section 1072, Subsection
4. For purposes of this section, the individual or group
policy under which the person is seeking coverage is the
"succeeding policy." The group or individual contract or
policy that previously covered the person is the "prior
contract or policy";-and

2 B. Coverage under the prior contract or policy terminated
4 within 3 months before the date the person enrolls or is
6 eligible to enroll in the succeeding policy. A period of
ineligibility for any health plan imposed by terms of
employment may not be considered in determining whether the
coverage ended within 3 months of the date the person
enrolls or would otherwise be eligible to enroll; and

8
10 C. This section does not apply to replacements of group
coverage within the scope of section 2849.

12
14 **STATEMENT OF FACT**

16 This bill does the following.

18 Part A contains clarification of the standards for coverage
of adoptive children required by the Omnibus Budget
Reconciliation Act of 1993. Under federal law, the penalty for
20 failure to adopt is reduction in medicare funds.

22 Part B contains clarification that Medicaid eligibility may
not be considered when calculating benefits and is also required
24 by the Omnibus Budget Reconciliation Act of 1993.

26 Part C provides a reference in Maine law that reflects the
decision to admit corporations as underwriters at Lloyd's of
28 London. Maine law previously recognized only individuals as
underwriters.

30 Part D amends the Maine Revised Statutes, Title 24, section
32 2347 and Title 24-A, section 2849 to provide continuity of
coverage to group members whose group coverage under an employer
34 self-funded plan is being replaced by a new group policy. This
change to group-to-group transfers of coverage is consistent with
36 Public Law 1993, chapter 477. Part D also clarifies that section
2849-B does not apply to group-to-group transfers that are
38 covered under section 2849.

40
42
44 **This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
46 amendments to conform existing law to current drafting standards.**