

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

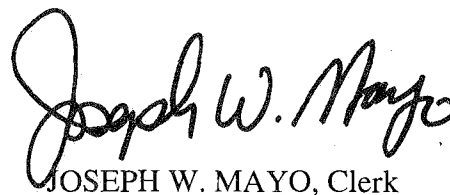
No. 1625

H.P. 1161

House of Representatives, March 21, 1997

**An Act to Create an Independent Ombudsman for Consumer Protection
in Managed Care.**

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


JOSEPH W. MAYO, Clerk

Presented by Representative MITCHELL of Portland.
Cosponsored by Senator LaFOUNTAIN of York and
Representatives: DAVIDSON of Brunswick, ETNIER of Harpswell, KANE of Saco,
LOVETT of Scarborough, MITCHELL of Vassalboro, THOMPSON of Naples, Senators:
MILLS of Somerset, RAND of Cumberland.

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

Sec. 1. 24-A MRSA §4243 is enacted to read:

§4243. Managed Care Ombudsman

1. Appointment. The Managed Care Ombudsman, referred to in this section as the "ombudsman," is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over insurance matters and subject to confirmation by the Legislature. The ombudsman shall serve for 7 years or until a successor is appointed and has qualified. A vacancy is filled by similar appointment.

2. Duties. The ombudsman's duties are to review and report on health care services provided by health maintenance organizations and on complaints about these services made by consumers. In carrying out these duties the ombudsman shall:

A. Inform enrollees of their rights, entitlements and obligations under health care maintenance plans by distributing educational materials and meeting with groups or individuals;

B. Participate as observer and resource in any survey or other regulatory review of a health maintenance organization performed by state agencies under state or federal law;

C. Investigate complaints received from enrollees or concerned parties regarding health care services or other matters concerning enrollees;

D. Investigate eligibility requirements of health maintenance organizations regarding who may and may not become an enrollee; and

E. Investigate health maintenance organization practices and procedures regarding dropping enrollees from coverage.

The ombudsman shall report the following annually by January 1st to the joint standing committees of the Legislature having jurisdiction over insurance matters and over health and human services matters: information obtained pursuant to paragraphs C to E, provided that the information does not identify individuals except as permitted under subsection 3, and any legislation the ombudsman recommends to protect consumers of health maintenance organization services.

3. Access to records. In carrying out the duties set forth in subsection 2, the ombudsman or any staff member authorized by the ombudsman may enter onto the premises of any health care maintenance organization or participating provider. The

2 ombudsman or authorized staff member may inspect and copy all
3 records pertaining to an enrollee as long as the enrollee or the
4 legal representative of the enrollee consents in writing to that
5 inspection. Appropriate identification for use under this
6 subsection must be issued to the ombudsman and authorized staff
7 members.

8 Information or records maintained by the ombudsman concerning
9 complaints may not be disclosed unless the ombudsman authorizes
10 the disclosure. The ombudsman may not disclose the identity of
11 any complainant or enrollee unless the complainant, enrollee or a
12 legal representative of either consents in writing to the
13 disclosure or a court orders the disclosure. A complainant,
14 enrollee or a legal representative of either, in providing the
15 consent, may specify to whom such identity may be disclosed and
16 for what purposes in which event no other disclosure is
17 authorized.

18 4. Immunity. Any person, official or institution that in
19 good faith participates in the following is immune from any civil
20 or criminal liability that otherwise might result from the
21 following:

22 A. Registering a complaint under this section;

23 B. Carrying out the duties set forth in subsection 2,
24 paragraphs C to E;

25 C. Providing access to those carrying out the duties set
26 forth in subsection 2, paragraphs C to E; or

27 D. A judicial proceeding resulting from a complaint under
28 this section.

29 For the purposes of any civil or criminal proceedings, there is a
30 rebuttable presumption that any person acting pursuant to this
31 section did so in good faith.

32 5. Funding. The superintendent shall:

33 A. Determine the amount of funds necessary for the
34 ombudsman to carry out the duties described in subsection 2;

35 B. Impose a surcharge in the amount necessary to generate
36 the funds required under paragraph A on the annual net
37 amounts obtained by entities that issue health care
38 policies, contracts or certificates governed by chapter 33,
39 35, 55 or this chapter or Title 24, chapter 19 from the
40 issuance of these policies, contracts or certificates; and

41 C. Transfer annually to the ombudsman the funds obtained
42 under this subsection.

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SUMMARY

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6 The bill creates a Managed Care Ombudsman to investigate
7 consumer experience with health maintenance organizations and
8 report on that investigation to the Legislature each year.
9 Funding for the ombudsman is obtained by the placement of a
10 surcharge, in an amount determined by the Superintendent of
11 Insurance, on the annual net amounts obtained from the issuance
12 of health care policies, contracts or certificates by nonprofit
13 hospital or medical service organization health care service
14 plans, individual or family health insurers, group health
insurers, fraternal benefit societies or health maintenance
organizations.