

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 119

S.P. 48

In Senate, January 11, 1999

**An Act to Make Maine Medicare Supplement Insurance Laws Consistent
with Federal Laws.**

(EMERGENCY)

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

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

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.
Cosponsored by Representative SAXL of Bangor and
Representatives: MADORE of Augusta, MAYO of Bath.

2 **Emergency preamble. Whereas,** Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** the United States Congress enacted and the
President signed the Balanced Budget Act of 1997; and

8 **Whereas,** portions of that law preempt conflicting state
laws; and

10
12 **Whereas,** it is in the best interest of the people of Maine
for the State to retain its ability to regulate its Medicare
supplement insurance market; and

14
16 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
18 necessary for the preservation of the public peace, health and
safety; now, therefore,

20
22 **Be it enacted by the People of the State of Maine as follows:**

24 **Sec. 1. 24-A MRSA §2849-B, sub-§1,** as amended by PL 1997, c.
370, Pt. C, §4, is further amended to read:

26 **1. Policies subject to this section.** This section applies
to all individual, group and blanket medical insurance policies
28 except hospital indemnity, specified accident, specified disease,
long-term care and short-term policies issued by insurers or
health maintenance organizations. For purposes of this section,
30 a short-term policy is an individual, nonrenewable policy issued
for a term that does not exceed 12 months. This section does not
32 apply to Medicare supplement policies as defined in section 5001,
34 subsection 4.

36 **Sec. 2. 24-A MRSA §2849-B, sub-§2, ¶¶A and B,** as amended by PL
1997, c. 445, §25 and affected by §32, are further amended to
38 read:

40 A. That person was covered under an individual or group
contract or policy issued by any nonprofit hospital or
42 medical service organization, insurer, health maintenance
organization, or was covered under an uninsured employee
44 benefit plan that provides payment for health services
received by employees and their dependents or a governmental
46 program, including, but not limited to, those listed in
section 2848, subsection 1-B, paragraph A, subparagraphs (3)
48 to (10). For purposes of this section, the individual or
group policy under which the person is seeking coverage is
50 the "succeeding policy." The group or individual contract
or policy or the uninsured employee benefit plan that

2 previously covered the person is the "prior contract or
policy"; and

4 B. Coverage under the prior contract or policy terminated:

6 (1) Within 180 days before the date the person enrolls
or is eligible to enroll in the succeeding contract if:

8 (a) Coverage was terminated due to unemployment,
10 as defined in Title 26, section 1043;

12 (b) The person was eligible for and received
unemployment compensation benefits for the period
14 of unemployment, as provided under Title 26,
chapter 13; and

16 (c) The person is employed at the time
18 replacement coverage is sought under this
provision; or

20 (2) Within 90 days before the date the person enrolls
22 or is eligible to enroll in the succeeding contract.

24 A period of ineligibility for any health plan imposed by
terms of employment may not be considered in determining
26 whether the coverage ended within a time period specified
under this section~~+-er~~.

28 **Sec. 3. 24-A MRSA §2849-B, sub-§2, ¶D,** as enacted by PL 1997,
30 c. 445, §25 and affected by §32, is repealed.

32 **Sec. 4. 24-A MRSA §5002-B** is enacted to read:

34 **§5002-B. Continuity of coverage**

36 **1. Persons provided continuity of coverage. This section**
38 **provides continuity of coverage for a person who seeks coverage**
under a Medicare supplement policy if:

40 **A. That person was previously covered under a Medicare**
supplement policy issued by the same or a different
42 **carrier. For purposes of this section, the Medicare**
supplement policy under which the person is seeking coverage
44 **is the "succeeding policy." The Medicare supplement policy**
that previously covered the person is the "prior policy";

46 **B. Coverage under the prior Medicare supplement policy**
48 **terminated within 90 days before the date the person applies**
for the succeeding policy; and

50 **C. The prior policy was issued during the insured's open**
52 **enrollment period or was issued to replace another Medicare**

2 supplement policy and the insured had continuous coverage
3 beginning in the insured's open enrollment period with no
4 gap in coverage in excess of 90 days. For purposes of this
5 section, any Medicare supplement policy that covered the
6 person before the prior policy is an "earlier policy."

7 **2. Prohibition against discontinuity.** The insurer shall,
8 for any person described in subsection 1, waive any medical
9 underwriting or preexisting conditions exclusion to the extent
10 that benefits would have been payable under the prior policy and
11 any earlier policy if those policies were still in effect. This
12 subsection does not require the succeeding insurer to pay any
13 benefits that are not within the terms of coverage of the
14 succeeding policy solely because they would have been paid by the
15 prior policy.

16 **3. Determination of benefits.** When a determination of
17 benefits under the prior policy is required, the issuer of the
18 prior policy shall, at the request of the issuer of the
19 succeeding policy, furnish a statement of benefits available or
20 pertinent information sufficient to permit verification of the
21 benefit determination or the determination itself by the issuer
22 of the succeeding policy. For purposes of this section, benefits
23 of the prior policy are determined in accordance with the
24 definitions, conditions and covered expense provisions of that
25 policy rather than those of the succeeding policy. The benefit
26 determination must be made as if coverage had not been replaced.

27 **Sec. 5. 24-A MRSA §5015,** as enacted by PL 1997, c. 370, Pt.
28 D, §1, is repealed.

29 **Emergency clause.** In view of the emergency cited in the
30 preamble, this Act takes effect April 28, 1999.

31 SUMMARY

32 This bill amends the laws governing Medicare supplement
33 insurance policies in order to conform to requirements in federal
34 law. It makes the continuity of coverage chapter of the
35 insurance code inapplicable to Medicare supplement policies and
36 enacts an analogous continuity of coverage section in the
37 Medicare supplement chapter. It repeals the law allowing a
38 person who switches from a Medicare supplement to a Medicare
39 managed care program to switch back within a 12-month period. It
40 has an effective date of April 28, 1999.