

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 204

H.P. 193

House of Representatives, January 18, 2001

An Act to Create an Alliance for the Purpose of Purchasing Health Insurance.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MARRACHE of Waterville.
Cosponsored by Representative RICHARDSON of Brunswick, Senator LEMONT of York,
Senator KILKELLY of Lincoln and
Representatives: CANAVAN of Waterville, LAVERRIERE-BOUCHER of Biddeford,
PATRICK of Rumford, PINEAU of Jay, TESSIER of Fairfield.

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

4 **Sec. 1. 5 MRSA §12004-G, sub-§21-B** is enacted to read:

6 21-B. Maine Com- Expenses 24 MRSA
Insurance munity Only §3403
8 Purchasing
10 Alliance
Board of
Directors

12 **Sec. 2. 24 MRSA c. 29** is enacted to read:

14 **CHAPTER 29**

16 **MAINE COMMUNITY PURCHASING ALLIANCE**

18 **§3401. Definitions**

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

24 1. Alliance. "Alliance" means the Maine Community
Purchasing Alliance established in section 3403.

26 2. Alliance member. "Alliance member" means a
28 participating employer, an enrolled employee or an enrolled
individual. A dependent of a participating consumer covered
30 under the participating consumer's health benefit plan is not an
alliance member.

32 3. Board. "Board" means the alliance board of directors
34 authorized pursuant to section 3403.

36 4. Bureau. "Bureau" means the Bureau of Insurance.

38 5. Carrier. "Carrier" means an insurer, health maintenance
organization or nonprofit hospital or medical service
40 organization licensed to do business in this State.

42 6. Enrolled employee. "Enrolled employee" means an
employee or association member of a participating employer whose
44 health care coverage is purchased through the alliance.

46 7. Enrolled individual. "Enrolled individual" means a
person purchasing health care coverage through the alliance,
48 without contribution from a participating employer.

2 8. Enrollee. "Enrollee" means an enrolled employee, an
enrolled individual or a dependent of an enrolled employee or
enrolled individual.

4
6 9. Health benefit plan. "Health benefit plan" means any of
the health benefit plans authorized by the alliance for purchase
by alliance members.

8
10 10. Participating carrier. "Participating carrier" means
an eligible carrier under section 3406 that contracts with the
alliance.

12
14 11. Participating consumer. "Participating consumer" means
an enrolled individual or an enrolled employee.

16
18 12. Participating employer. "Participating employer" means
an employer, or an association meeting the requirements set forth
in Title 24-A, section 2805-A, that meets the eligibility
requirements established pursuant to section 3405 and that
purchases health care coverage through the alliance on behalf of
its employees or association members.

22
24 13. Producer. "Producer" means a producer or independent
producer licensed to do business in the State under Title 24-A,
chapter 16.

26
28 14. Superintendent. "Superintendent" means the
Superintendent of the Bureau of Insurance.

30 **§3402. Jurisdiction of bureau**

32 Nothing in this chapter is intended to conflict with or
limit the duties and powers granted to the superintendent under
the laws of this State. The board and alliance established under
this chapter shall report to the bureau any suspected or alleged
violations of this chapter. Violations of this chapter are
subject to the full range of regulatory actions, processes and
remedies available to the superintendent in dealing with other
entities that the superintendent may regulate.

40 **§3403. Maine Community Purchasing Alliance established**

42
44 The Maine Community Purchasing Alliance is established as a
nonprofit, nonrisk-bearing corporation licensed pursuant to this
chapter to purchase health care coverage on behalf of its
alliance members. The alliance may not be considered a state
agency or instrumentality of the State for any purpose. The
State may not borrow or otherwise appropriate funds from the
alliance.

2 1. Alliance board of directors. The alliance operates
3 under the supervision of a board of directors that consists of 11
4 voting members and 2 nonvoting members.

5
6 A. Ten of the voting board members must be designated as
7 follows. Five members must represent participating
8 consumers. The remaining 5 must represent participating
9 employers. One employer member must represent a
10 self-employed business. One employer member must represent
11 a public employer. One employer member must represent a
12 business with fewer than 100 employees. One employer member
13 must represent a business with 100 to 999 employees. One
14 employer member must represent a business with 1,000 or more
15 employees.

16 (1) Initially the Governor shall appoint the 10 voting
17 board members who must represent participating
18 consumers and employers, subject to review by the joint
19 standing committee of the Legislature having
20 jurisdiction over insurance matters and confirmation by
21 the Legislature. For the purpose of the initial
22 appointment, a person represents a consumer or group of
23 employers if that person is eligible to participate as
24 a consumer or as a member of that group of employers.

25
26 (2) After the initial term, the 10 board members
27 designated pursuant to this paragraph must be elected
28 by alliance members. The board shall establish
29 procedures in its bylaws governing the election of
30 board members and maintaining the distribution of
31 consumer and employer representatives. For the purpose
32 of this section, except for the initial appointment, a
33 person represents a consumer if that person is elected
34 by participating consumers. For the purpose of this
35 section, except for the initial appointment, a person
36 represents a group of employers if that person is
37 elected by participating employers from that employer
38 group. To be eligible to vote, a participating
39 employer must contribute a minimum of 50% of the
40 premium cost toward the purchase of health care
41 coverage for its employees. The board may set a higher
42 minimum employer contribution as a voting eligibility
43 requirement for participating employers.

44
45 B. The 10 board members shall choose the 11th voting board
46 member. The appointed members shall choose the 11th member
47 prior to the adoption of the board's bylaws.

48
49 C. The Commissioner of Human Services is an ex officio
50 nonvoting member of the board.

2 D. The executive director of the alliance is an ex officio
3 nonvoting member of the board.

4
5 E. A person may not be a board member if that person or a
6 member of that person's household is currently employed as
7 or by, is a consultant for, is a member of the board of
8 directors of or is affiliated with an agent or
9 representative of a carrier, producer, health care provider
10 or other entity having an interest in board decisions
11 distinct from the interest of alliance members. Prior to
12 appointment or election to the board, potential board
13 members shall disclose to those appointing or electing any
14 other personal financial interest the potential board member
15 has in an entity having an interest in board decisions
16 distinct from the interest of the alliance members. Board
17 members may not accept gifts or any other financial gain
18 from any carrier, agent, health care provider or other
19 entity having an interest in board decisions distinct from
20 the interest of alliance members. This paragraph does not
21 preclude a board member from purchasing coverage from a
22 carrier.

23 F. All board members must be knowledgeable about health
24 care financing and delivery systems.

25
26 2. Bylaws. The board shall adopt bylaws that govern the
27 operation of the alliance. The bylaws must include procedures
28 for the election of board members consistent with the terms set
29 forth in this section.

30
31 3. Terms of office. The terms of the voting board members
32 are staggered. For the initially appointed members of the board,
33 the terms of office are as follows: Three members serve one-year
34 terms; 3 members serve 2-year terms; and 4 members serve 3-year
35 terms. Of the initial appointees, no 3 consumer representatives
36 may have the same term length. The 10 appointed members shall
37 determine the initial term of the 11th voting member. After the
38 initial appointment of members, voting board members serve 3-year
39 terms. Board members may serve a maximum of 2 consecutive terms.

40
41 4. Officers. The Governor shall appoint the first chair of
42 the board. Subsequently, the members of the board shall elect
43 the chair. A member chosen as chair serves as chair for a length
44 of time equal to that member's term.

45
46 5. Meetings. The board shall meet at times and places as
47 it determines necessary to operate the alliance in accordance
48 with this section. To the extent that it does not interfere with
49 the alliance's effectiveness at performing its purchasing
50 functions, the board may also meet at times and places as it

2 functions, including, but not limited to, planning negotiation
3 strategy, negotiating with carriers and settling personnel
4 matters, the board shall conduct meetings open to alliance
5 members.

6 6. Standard of performance. The board shall discharge its
7 duties with the care, skill, prudence and diligence as that of
8 prudent directors acting in a similar enterprise and with a
9 similar purpose.

10 7. Personal liability. The members of the board and
11 officers or employees of the alliance are not liable personally,
12 either jointly or severally, for any debt or obligation created
13 or incurred by the alliance.

14 8. Powers and duties. The board has the powers and duties
15 set forth in section 3404 regarding operation of the alliance.

16 9. Compensation. Board members are entitled to
17 compensation for expenses only.

18 **§3404. Powers and duties of the board**

19 The board has the following powers and duties.

20 1. Contracts with carriers. The board may enter into
21 contracts with eligible carriers to provide health care coverage
22 to enrollees.

23 2. Contracts with independent contractors. The board may
24 contract with qualified, independent contractors for services
25 necessary to carry out the powers and duties of the alliance.
26 Unless permission is granted specifically by the board, an
27 independent contractor hired by the alliance may not release,
28 publish or otherwise use any information to which the independent
29 contractor has access under its contract. Except with the
30 express written approval of the board, an entity may not act,
31 directly or through an affiliated person, both as a participating
32 carrier and an independent contractor under contract to the
33 alliance.

34 3. Contracts generally. The board may enter into any
35 contracts necessary to carry out the powers and duties of this
36 chapter.

37 4. Legal action. The board may sue or be sued, including
38 taking any action necessary for securing legal remedies for, on
39 behalf of or against the alliance, alliance members, any board
40 member or other parties subject to this chapter.

41

2 5. Executive director; staff. The board shall appoint an
3 executive director to serve as the chief operating officer of the
4 alliance and to perform those duties delegated to the executive
5 director by the board. The executive director serves at the
6 pleasure of the board. The executive director may employ other
7 staff as needed to administer the alliance, subject to the
8 personnel policies established by the board.

9 6. Premium assessment. The board may assess alliance
10 members a reasonable assessment for costs incurred or anticipated
11 in connection with the operation of the alliance.

12 7. Advisory committees. The board may appoint advisory
13 committees that may include persons with expertise in health
14 benefits management and representatives of participating
15 carriers, consumer groups and health care providers necessary to
16 carry out the purposes of this chapter.

17 8. Reports and record. The board shall prepare an annual
18 report on the operations of the alliance that must include annual
19 internal and independent audits and an accounting of all outside
20 revenue received by the board. The board shall submit the annual
21 report to the Governor, the joint standing committee of the
22 Legislature having jurisdiction over insurance matters and the
23 State Auditor no later than January 15th of each year.

24 9. Grants. The board may receive and accept grants, funds
25 or anything of value from any public or private agency and
26 receive and accept contributions from any legitimate source of
27 money, property, labor or any other thing of value. However, the
28 board may not accept grants from any carrier, agent or health
29 care provider or other person or entity that might have a
30 financial interest in the decisions of the board.

31 10. Risk selection. The board may not use health status as
32 a condition of participation in the alliance.

33 11. Other powers. The board may carry out all other powers
34 and responsibilities granted or imposed by this chapter.

35 §3405. Operation of the alliance

36 The board shall establish and implement standards and
37 procedures for the operation of the alliance, including, but not
38 limited to, the following.

39 1. Eligibility of carriers. The board shall establish
40 conditions and procedures for determining the eligibility of
41 carriers, including, but not limited to, those conditions set
42 forth in section 3406.
43

2 **2. Report cards.** The board shall develop a uniform format
4 for report cards to be prepared and provided by participating
6 carriers. The report cards must include data necessary for
8 evaluation of the performance of participating carriers and their
10 provider networks by consumers, providers, employers and the
12 board, including, but not limited to, information on consumer
14 satisfaction, service utilization and the cost of the health
16 benefit plan over time. In formulating the report card format,
 the board shall use standards based on and consistent with
 existing state and national health care data collection
 initiatives and shall take into account the feasibility and
 cost-effectiveness of those standards. The board shall also
 develop standards and procedures for reviewing and auditing the
 report cards before publication and distribution to current and
 potential alliance members.

18 **3. Eligibility of employers and participating consumers.**
20 The board shall establish conditions for enrollment and
22 participation, including payment of premiums. For employers,
24 including the self-employed, these conditions must include, but
26 are not limited to, assurances that, for each employer, all
 employees or an entire class or classes of employees are enrolled
 in the alliance. The board shall also set a minimum employer
 contribution for employer participation.

28 **4. Enrollment procedures.** The board shall establish
30 standard enrollment procedures, including, but not limited to,
32 ongoing enrollment for those joining the alliance, procedures
34 that allow participating consumers to change participating
36 carriers for good cause and annual open enrollment for
38 participating consumers that desire to change health benefit
40 plans or participating carriers without good cause. The board
42 shall provide that each participating consumer may enroll in any
44 health benefit plan offered by any participating carrier, so long
 as the carrier provides coverage where that participating
 consumer lives. The board shall establish rules for reenrollment
 within 90 days if coverage was terminated involuntarily. The
 board shall define "involuntary termination" to include loss of
 coverage resulting from job loss, divorce and other causes, and
 to exclude termination for nonpayment and other causes, as it
 considers appropriate. For other than involuntary termination,
 the board may deny reenrollment for a period of up to 12 months.

46 **5. Quality performance reports.** The board shall develop
48 uniform standards for the collection of data to be provided by
50 participating carriers. The board shall collect data necessary
 for evaluating the performance of participating carriers and
 their provider networks. The board may develop methods of
 quality analysis for analyzing the data for use within quality

2 performance reports. The board may use the reports for
4 determining the qualifications of plans. The board shall use
6 standards based on and consistent with existing state and
8 national health care data collection initiatives and shall take
10 into account the feasibility and cost-effectiveness of those
12 standards. To the extent feasible, the board shall use the
14 quality performance reports to work with participating carriers
and their provider networks to improve the quality and
cost-effectiveness of the care provided. The board may consult a
quality improvement foundation designated by an independent state
health data organization to assist the board in the evaluation of
the quality and appropriateness of care for participating
providers. At its discretion, the board may publish all or part
of the quality performance reports.

16 **6. Collection of premium; payment of rates.** The board
18 shall establish procedures for the collection of premiums from
20 participating employers, from enrolled employees, as necessary,
22 and from enrolled individuals. To the extent feasible, the board
24 shall allow participating consumers to pay through a voluntary
automatic payment system. The board shall pay contracted rates
to participating carriers on a monthly basis or as otherwise
provided by mutual agreement.

26 **7. Administrative and accounting procedures.** The board
28 shall establish administrative and accounting procedures for
operating the alliance and for providing services to alliance
members.

30 **8. Risk pools.** The board shall develop standards for
32 classifying groups of participating consumers into risk pools.
34 The risk pools may include one or more risk pools for enrolled
36 employees and their dependents and a risk pool for enrolled
38 individuals and their dependents. No later than January 1, 2003,
the board shall determine whether to merge the risk pools. Each
year after the year 2003 that the risk pools remain separate, the
board shall reassess the value of maintaining separate risk pools.

40 **9. Risk adjustment.** The board may establish a procedure
42 for adjusting payments within each risk pool to participating
44 carriers if the board finds that some carriers have a
significantly disproportionate share of high-risk or low-risk
enrollees.

46 **10. Ombudsman services.** The board shall establish
48 procedures for assisting enrollees in resolving problems
associated with enrollment, coverage and other disputes arising
between the carrier and the enrollee that are not otherwise
resolved by available grievance procedures.

2 11. Marketing; marketing materials. The board shall
develop standards for reviewing and approving marketing materials
4 offered to alliance members by participating carriers. The board
shall establish procedures for distributing marketing information
6 to alliance members and potential alliance members.

8 12. Health benefit plans. Subject to the insurance laws of
this State, the board shall establish no more than 10 health
10 benefit plans that may be sold within the alliance. At least one
health benefit plan must offer coverage equivalent to the state
12 employee health plan as defined under Title 5, section 285. At
least one health benefit plan must be a fee-for-service policy.
14 For at least one fee-for-service health benefit plan, there must
be an actuarially equivalent managed care health benefit plan.
16 The alliance may establish supplemental benefit plans that may be
offered through the alliance. The supplemental plans may cover
18 services not covered in the health benefit plans.

20 13. Underserved areas. The board shall develop standards
for designating underserved and rural populations and shall
22 develop standards for determining when a carrier has made all
best efforts to extend its service area to and improve access for
24 those populations. When applicable, all best efforts include
good faith negotiation with providers serving underserved and
26 rural populations.

28 14. Producers. The board may establish relationships with
producers to facilitate the purchase of health care coverage
30 through the alliance. The board may offer training and
information programs to educate producers on alliance operations
and products.

32 §3406. Eligible carriers

34 1. Qualifications. To be eligible as a participating
36 carrier, a carrier must be able to demonstrate the following
operating characteristics to the board's satisfaction.

38 A. The carrier must be licensed by the bureau as authorized
40 to operate in this State.

42 B. The carrier must have the ability to provide alliance
enrollees with adequate capacity and reasonable access to
44 covered services in any part of the State where that carrier
is authorized to do business.

46 C. The carrier must have established grievance procedures
48 in accordance with Title 24-A, chapter 56-A.

2 D. If the carrier does not have a license to operate in all
4 parts of this State, the carrier must have demonstrated that
6 it has made all best efforts to extend its service area to,
8 and improve access for, rural and underserved populations
10 designated by the board.

12 E. The carrier must have the ability, to the satisfaction
14 of the board, to provide the data necessary for reviewing
16 the quality and appropriateness of the care provided.

18 **2. Selection of carriers.** In evaluating which eligible
20 carriers may participate in the alliance, the board shall
22 consider, in addition to other factors it considers relevant, the
24 following factors:

26 A. Pricing and competitiveness of each bid from a carrier;

28 B. The effect of contracting with additional carriers on
30 the administrative costs of the alliance and on alliance
32 members, the efficiency of the alliance and the
34 competitiveness of the premiums that will be paid to
36 participating carriers; and

38 C. Evidence of quality of care and consumer satisfaction.

40 **3. Participation.** A participating carrier shall:

42 A. Offer one or more standardized health benefit plans
44 authorized by the board pursuant to section 3405, subsection
46 12;

48 B. Provide for collection and reporting to the alliance of
information on the effectiveness and outcomes of the health
benefit plan in providing selected services;

C. Accept and renew each health benefit plan with respect
to each participating consumer, except in the following
cases:

(1) Nonpayment of the required premiums;

(2) Willful or deliberate fraud or material
misrepresentation by the alliance member; and

(3) Election by the participating carrier to terminate
its contract with the alliance. The carrier shall
provide to the alliance, the bureau and to affected
participating consumers, notice of the carrier's
decision to terminate its contract with the alliance at

