

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 510

H.P. 389

House of Representatives, February 6, 2001

**An Act Concerning Indemnification and Limitation of Liability
Provisions of Managed Care Participating Provider Agreements.**

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative SHIELDS of Auburn.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: MARRACHE of Waterville, MAYO of Bath, RICHARDSON of Brunswick,
Senator: MITCHELL of Penobscot.

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

2
4 Sec. 1. 24-A MRSA §4308, as repealed and replaced by PL 1999,
c. 742, §18, is repealed and the following enacted in its place:

6 **§4308. Indemnification and limitation of liability**

8 **1-A. Indemnification.** A contract between a carrier
10 offering a health plan and a provider for the provision of
12 services to enrollees may not require the provider to indemnify
14 the carrier for expenses and liabilities, including, without
16 limitation, judgments, settlements, attorney's fees, court costs
18 and any associated charges incurred in connection with a claim or
20 action brought against the health plan based on the carrier's own
22 fault. Nothing in this subsection may be construed to remove
24 responsibility of a carrier or provider for expenses or
liabilities caused by the carrier's or provider's own negligent
acts or omissions or intentional misconduct. An indemnification
provision in a contract between a carrier and a participating
provider must be reciprocal, applying equally to the carrier and
the participating provider, and may not require the carrier or
the participating provider to indemnify the other for an amount
beyond the limit of liability insurance coverage available in
this State.

26 **2. Limitation of liability.** A contract between a carrier
28 offering a health plan and a provider for the provision of
30 services to enrollees may not limit the right of the enrollee,
the participating provider or the carrier to pursue those damages
available under the law of this State.

32
34 **SUMMARY**

36 This bill provides that an indemnification provision in a
38 managed care participating provider agreement must apply equally
40 to each party and may not require the carrier or the
participating provider to indemnify the other for any amount
beyond the limit of liability insurance coverage available in the
State. The bill also prohibits a carrier from limiting its
liability in a participating provider agreement.