

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1638

S.P. 519

In Senate, March 13, 2001

An Act to Reform Health Care in the State.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

PART A

Sec. A-1. 24-A MRSA §2736-C, sub-§1, ¶B, as enacted by PL 1993, c. 477, Pt. C, §1 and affected by Pt. F, §1, is amended to read:

B. "Community rate" means the rate charged to all eligible individuals for individual health plans prior to any adjustments pursuant to subsection 2, paragraphs B-1, C and D.

Sec. A-2. 24-A MRSA §2736-C, sub-§2, as amended by PL 1999, c. 44, §1 and affected by §2, is further amended to read:

2. **Rating practices.** The following requirements apply to the rating practices of carriers providing individual health plans.

A. A carrier issuing an individual health plan after December 1, 1993 must file the carrier's community rate and any formulas and factors used to adjust that rate with the superintendent prior to issuance of any individual health plan.

B. A carrier may not vary the premium rate due to the gender, ~~health-status,~~ claims experience or policy duration of the individual.

B-1. A carrier may not vary the premium rate due to the health status of the individual except as permitted under this paragraph.

(1) A carrier may vary the premium rate up to 30% below the community rate filed by the carrier for an individual based on the individual's maintenance of a healthy lifestyle.

(2) A carrier may vary the premium rate up to 30% above the community rate filed by the carrier for an individual based on the individual's failure to maintain a healthy lifestyle.

The superintendent shall adopt rules setting forth the appropriate factors a carrier may consider in determining whether an individual maintains a healthy lifestyle. These factors include, but are not limited to, smoking status, obesity, alcoholism or substance abuse and management of chronic conditions, including diabetes and high blood

2 pressure. Rules adopted pursuant to this paragraph are
3 routine technical rules as defined in Title 5, chapter 375,
4 subchapter II-A.

6 C. A carrier may vary the premium rate due to family
7 membership.

8 D. A carrier may vary the premium rate due to age, ~~smoking~~
9 ~~status, occupation or industry, and geographic area only~~
10 ~~under the following schedule and within the listed~~
11 ~~percentage bands up to 10% above or below the community rate~~
12 ~~filed by the carrier.~~

14 ~~(1) For all policies, contracts or certificates that~~
15 ~~are executed, delivered, issued for delivery, continued~~
16 ~~or renewed in this State between December 1, 1993 and~~
17 ~~July 14, 1994, the premium rate may not deviate above~~
18 ~~or below the community rate filed by the carrier by~~
19 ~~more than 50%.~~

20 ~~(2) For all policies, contracts or certificates that~~
21 ~~are executed, delivered, issued for delivery, continued~~
22 ~~or renewed in this State between July 15, 1994 and July~~
23 ~~14, 1995, the premium rate may not deviate above or~~
24 ~~below the community rate filed by the carrier by more~~
25 ~~than 33%.~~

28 ~~(3) For all policies, contracts or certificates that~~
29 ~~are executed, delivered, issued for delivery, continued~~
30 ~~or renewed in this State after July 15, 1995, the~~
31 ~~premium rate may not deviate above or below the~~
32 ~~community rate filed by the carrier by more than 20%.~~

34 E. A separate community rate may be established for
35 individuals eligible for Medicare Part A without paying a
36 premium; however, this rate may not be applied if both the
37 Medicare eligibility date and the issue date are prior to
38 July 1, 2000.

40 **Sec. A-3. 24-A MRSA §2808-B, sub-§1, ¶B,** as enacted by PL
41 1991, c. 861, §2, is amended to read:

42 B. "Community rate" means the rate to be charged to all
43 eligible groups for small group health plans prior to any
44 adjustments pursuant to subsection 2, paragraphs B-1, C and
45 D.

48 **Sec. A-4. 24-A MRSA §2808-B, sub-§2, ¶B,** as amended by PL
49 1993, c. 477, Pt. B, §1 and affected by Pt. F, §1, is further
50 amended to read:

2 B. A carrier may not vary the premium rate due to the
4 gender, health-status, claims experience or policy duration
of the eligible group or members of the group.

6 **Sec. A-5. 24-A MRSA §2808-B, sub-§2, ¶B-1** is enacted to read:

8 B-1. A carrier may not vary the premium rate due to the
10 health status of the eligible group or members of the group
except as permitted under this paragraph.

12 (1) A carrier may vary the premium rate up to 30%
14 below the community rate filed by the carrier for an
eligible group or members of the group based on a
16 member's maintenance of a healthy lifestyle.

18 (2) A carrier may vary the premium rate up to 30%
20 above the community rate filed by the carrier for an
eligible group or members of the group based on a
member's failure to maintain a healthy lifestyle.

22 The superintendent shall adopt rules setting forth the
24 appropriate factors a carrier may consider in determining
whether a member of a group maintains a healthy lifestyle.
26 These factors include, but are not limited to, smoking
status, obesity, alcoholism or substance abuse and
28 management of chronic conditions, including diabetes and
high blood pressure. Rules adopted pursuant to this
30 paragraph are routine technical rules as defined in Title 5,
chapter 375, subchapter II-A.

32 **Sec. A-6. 24-A MRSA §2808-B, sub-§2, ¶D**, as amended by PL
1997, c. 445, §14 and affected by §32, is further amended to read:

34 D. A carrier may vary the premium rate due to age,~~smoking~~
36 ~~status, occupation or industry, and geographic area only~~
~~under the following schedule and within the listed~~
38 ~~percentage bands up to 10% above or below the community rate~~
~~filed by the carrier.~~

40 ~~(1) For all policies, contracts or certificates that~~
42 ~~are executed, delivered, issued for delivery, continued~~
~~or renewed in this State between July 15, 1993 and July~~
44 ~~14, 1994, the premium rate may not deviate above or~~
~~below the community rate filed by the carrier by more~~
46 ~~than 50%.~~

48 ~~(2) For all policies, contracts or certificates that~~
~~are executed, delivered, issued for delivery, continued~~

2 ~~or renewed in this State between July 15, 1994 and July~~
3 ~~14, 1995, the premium rate may not deviate above or~~
4 ~~below the community rate filed by the carrier by more~~
5 ~~than 33%.~~

6 ~~(3) For all policies, contracts or certificates that~~
7 ~~are executed, delivered, issued for delivery, continued~~
8 ~~or renewed in this State after July 15, 1995, the~~
9 ~~premium rate may not deviate above or below the~~
10 ~~community rate filed by the carrier by more than 20%,~~
11 ~~except as provided in paragraph D-1.~~

12 **Sec. A-7. 24-A MRSA §2808-B, sub-§2, ¶D-1,** as enacted by PL
13 1997, c. 445, §14 and affected by §32, is repealed.

14 **Sec. A-8. 24-A MRSA §2808-B, sub-§2, ¶D-2,** as reallocated by
15 RR 1997, c. 1, §22, is amended to read:

16 ~~D-2. Notwithstanding the requirements of paragraph D,~~ rates
17 Rates with respect to employees whose work site is not in
18 this State may be based on area adjustment factors
19 appropriate to that location.

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24 **PART B**

25 **Sec. B-1. Department of Human Services to apply for waiver.** By
26 January 1, 2002, the Department of Human Services shall apply to
27 the United States Department of Health and Human Services, Health
28 Care Financing Administration for a waiver to permit funding
29 under the Medicaid program to allow comprehensive coverage of all
30 residents up to 100% of the official federal nonfarm income
31 poverty line. The Department of Human Services may adopt rules
32 required to implement the waiver program in accordance with this
33 section. Rules adopted pursuant to this section are major
34 substantive rules as defined in the Maine Revised Statutes, Title
35 5, chapter 375, subchapter II-A.

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39 **PART C**

40 **Sec. C-1. 36 MRSA §5219-U** is enacted to read:

41 **§5219-U. Credit for employee health benefits paid**

42 **1. Credit allowed.** A taxpayer constituting an employing
43 unit is allowed a credit to be computed as provided in this
44 section against the tax imposed by this Part, subject to the
45 limitations contained in subsections 3 and 4. The credit equals
46 10% of the amount exceeding \$1000 paid for employee health

2 benefits under a health benefit plan during the taxable year for
3 which the credit is allowed for each qualifying employee.

4 **2. Definitions.** As used in this section, unless the
5 context otherwise indicates, the following terms have the
6 following meanings.

8 A. "Employee health benefits" means health benefits and
9 health insurance costs allowable as deductions to the
10 employer under Section 105 of the Code, paid by the taxpayer
11 on behalf of the taxpayer's employees for the benefit of the
12 employees and the employees' dependents.

14 C. "Employing unit" has the same meaning as in Title 26,
15 section 1043.

16 D. "Health benefit plan" means a plan that includes
17 comprehensive coverage for inpatient and outpatient hospital
18 services; physicians' surgical and medical services;
19 laboratory and x-ray services; and well-baby and well-child
20 care, including age-appropriate immunizations.

22 E. "Qualifying employee" means a resident of the State
23 whose average hourly wage is below 1/50 of the State's
24 average annual weekly wage as calculated by the Department
25 of Labor.

28 **3. Qualifications.** A taxpayer may claim the credit allowed
29 by this section only for those periods during which the following
30 conditions are met:

32 A. The taxpayer maintains a health benefit plan that is
33 available to all of the taxpayer's qualifying employees who
34 have been employed for 30 days or more on a schedule that
35 exceeds either 25 hours per week or 1000 hours per year; and

36 B. The taxpayer submits documentation from an insurer of
37 the portion of the cost of benefits that qualifies for a
38 credit under this section attributable to coverage of
39 qualifying employees and their dependents.

42 **4. Limitations; carry-over.** The amount of the credit that
43 may be used by a taxpayer for a taxable year may not exceed 50%
44 of the state income tax otherwise due under this Part for that
45 year. The unused portion of any credit may be carried over to
46 the following year or years for a period not to exceed 2 years.
47 The credit allowable under this section may not be carried back
48 to prior years.

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PART D

2 **Sec. D-1. 5 MRSA §12004-E, sub-§4** is enacted to read:

4 4. Standard Small Legislative 24-A MRSA
6 Group Health Plan Per Diem for §2808-C
8 Commission Public Members

10 **Sec. D-2. 24-A MRSA §2808-C** is enacted to read:

12 **§2808-C. Standard Small Group Health Plan Commission**

14 **1. Definitions.** As used in this section, unless the
context indicates otherwise, the following terms have the
following meanings.

16 A. "Carrier" has the same meaning as in section 2808-B,
18 subsection 1, paragraph A.

20 B. "Commission" means the Standard Small Group Health Plan
22 Commission.

24 C. "Premium rate" has the same meaning as in section 2808-B,
26 subsection 1, paragraph F.

28 D. "Small group health plan" has the same meaning as in
30 section 2808-B, subsection 1, paragraph G.

32 E. "Standard plan" has the same meaning as in section
34 2808-B, subsection 8, paragraph A.

36 **2. Establishment.** The Standard Small Group Health Plan
Commission, referred to in this section as the "commission,"
established by Title 5, section 12004-E, subsection 4, is
composed of the following 3 members:

38 A. The superintendent or the superintendent's designee; and

40 B. Two members of the public, one member appointed by the
President of the Senate and one member appointed by the
42 Speaker of the House of Representatives.

44 Each public member of the commission is entitled to compensation
pursuant to Title 5, chapter 379. The commission shall meet from
time to time as required to fulfill its responsibilities. The
46 bureau shall provide staff assistance to the commission.

48 **3. Duties.** The commission shall define a minimum standard
small group health plan in addition to the 2 plans defined by

rule by the superintendent under section 2808-B, subsection 8.
The minimum standard plan must include the following terms:

A. The plan must be offered by all carriers offering small group health plans in the State; and

B. The plan's premium rate may not exceed 10% of the State's average annual wage.

Notwithstanding any other provision of law, the commission has the authority to define a minimum standard small group health plan that does not include certain or all health benefits mandated by state law if the exclusion of the mandated benefit or benefits is necessary to meet the requirement of paragraph B.

PART E

Sec. E-1. 22 MRSA §1578-B, sub-§2, as enacted by PL 1987, c. 687, is amended to read:

2. **Prohibition.** Except as provided in subsections 3 and 4, no student or school employee is allowed to use tobacco in the buildings or on the grounds of any elementary or secondary school while school is in session.

Sec. E-2. 22 MRSA §1578-B, sub-§5, as amended by PL 1993, c. 342, §4 and affected by §9, is further amended to read:

5. **Public.** Tobacco use by any member of the public, other than an employee or student, in school buildings and on school grounds is governed by chapter 262 prohibited.

SUMMARY

This bill does the following.

In Part A, the bill authorizes health insurance carriers to vary premium rates up to 10% above or below the community rate filed by a carrier based on age and eliminates the ability of carriers to vary the premium rate based on smoking status, geographic area or occupation and industry for individual and small group health plans. The bill also authorizes a carrier to vary the premium rate up to 30% above or below the community rate based on the ability of an individual to maintain a healthy lifestyle. The bill identifies the factors that may be considered by a carrier in determining whether an individual maintains a healthy lifestyle as smoking status, obesity, alcohol

2 or substance abuse and the management of chronic conditions such
as diabetes and high blood pressure.

4 In Part B, the bill directs the Department of Human Services
to apply for a waiver from the federal Department of Health and
6 Human Services, Health Care Financing Administration to allow
comprehensive coverage under Medicaid for residents of the State
8 with an income up to 100% of the official federal nonfarm poverty
line.

10 In Part C, the bill establishes a tax credit for employers
12 that provide health benefits to their employees and their
dependents. The bill allows a credit of 10% of the amount paid
14 for health benefits in excess of \$1,000 for each qualifying
employee under a health benefit plan for the taxable year. The
16 bill defines a "qualifying employee" as one whose hourly wage is
below 1/50th of the State's average annual weekly wage.

18 In Part D, the bill establishes the Standard Small Group
20 Health Plan Commission and directs the commission to define by
rule a minimum standard small group health plan. The bill
22 requires that the plan's premium not exceed 10% of the State's
average annual wage.

24 In Part E, the bill bans smoking and other tobacco use by
26 students, school employees and the public in school buildings and
on school grounds.