

MAINE STATE LEGISLATURE

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BANKING AND INSURANCE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1324, L.D. 1784, Bill, "An Act to Lower Costs in the Small Group Market"

Amend the bill by striking out the title and substituting the following:

'An Act to Address the Health Coverage Crisis for Maine's Small Businesses and Self-employed Persons'

Further amend the bill by inserting after the enacting clause and before the concept draft summary the following:

'Sec. 1. 22 MRSA c. 854 is enacted to read:

CHAPTER 854

MAINE SMALL BUSINESS HEALTH COVERAGE PLAN

§3161. Definitions

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

1. Administrator. "Administrator" means any person who, on behalf of the board, receives or collects charges, contributions or premiums for, or adjusts or settles claims on residents of this State in connection with, any type of health benefit provided under the plan as an alternative to insurance as described in by Title 24-A, sections 702 to 704, other than any person listed in Title 24-A, section 1901, subsection 1, paragraphs A to O.

2 2. Board. "Board" means the board of directors of the
Maine Small Business Health Coverage Plan.

4 3. Charges. "Charges" means any compensation paid by the
board for services performed by the administrator.

6 4. Contribution. "Contribution" means the value of the
8 funds that have been provided or are to be applied by a small
employer to fund the plan including any money charged an eligible
10 employer to provide for stop loss or excess insurance coverage to
the plan. Contributions include any fees charged to an enrollee
12 for participation in the plan.

14 5. Eligible employee. "Eligible employee" or "employee"
means an individual who:

16 A. Meets the definition set forth in Title 24-A, section
18 2808-B, subsection 1, paragraph C;

20 B. Is self-employed as described in subsection 9, paragraph
C; or

22 C. Is a sole employee of a nonprofit organization that has
24 been determined by the Internal Revenue Service to be exempt
from taxation under 26 Internal Revenue Service Code,
26 Section 501(c)(3), (4) or (6) who has a normal work week of
at least 20 hours and is not covered under a public or
28 private plan for health insurance or other health benefit
arrangement.

30 6. Enrollee. "Enrollee" means an individual who is
32 enrolled in the plan.

34 7. Loss ratio. "Loss ratio" means the ratio between the
amount of contributions received and the amount of claims paid by
36 the administrator under the plan.

38 8. Plan. "Plan" means the Maine Small Business Health
Coverage Plan established by this chapter.

40 9. Small employer. "Small employer" or "employer" means a
42 person that:

44 A. On at least 50% of its working days during the preceding
46 calendar quarter, employed at least 2 but not more than 50
eligible employees, the majority of whom are employed in the
State;

48 B. If an employer was not in existence throughout the
50 preceding calendar year, on at least 50% of the working days

2 during its first year employed at least 2 but not more than
3 50 eligible employees, the majority of whom are employed in
4 this State;

6 C. Is a self-employed individual who:

8 (1) Works and resides in the State; and

10 (2) Is organized as a sole proprietorship or in any
11 other legally recognized manner that a self-employed
12 individual may organize, a substantial part of whose
13 income derives from a trade or business through which
14 the individual has attempted to earn taxable income,
15 and who has filed the appropriate internal revenue form
16 for the previous taxable year and for whom a copy of
17 the appropriate internal revenue form or forms and
18 schedule has been filed with the plan or its
19 administrator; or

20 D. Is a nonprofit organization that has been determined by
21 the Internal Revenue Service to be exempt from taxation
22 under 26 Internal Revenue Code, Section 501(c)(3), (4) or
23 (6) and has at least one eligible employee.

24 **§3162. Maine Small Business Health Coverage Plan**

26 1. Plan established. The Maine Small Business Health
27 Coverage Plan is established to provide comprehensive health care
28 coverage at affordable prices to small employers, including
29 self-employed individuals, their employees and dependents on a
30 voluntary basis. The plan operates under the supervision of the
31 board and in coordination with the department.

32 2. Board. The board of directors is comprised of 11 voting
33 members and one ex officio nonvoting member.

34 A. Members must be appointed as follows.

36 (1) The President of the Senate shall appoint 2
37 members, one of whom is a representative of the
38 self-employed and one of whom is a representative of
39 organized labor;

40 (2) The Speaker of the House of Representatives shall
41 appoint 2 members, one of whom represents small
42 businesses in this State and one of whom represents
43 health care consumers in this State;

44 (3) The Governor shall appoint 2 members, one of whom
45 is a health policy expert with expertise in both the
46 and
47 and
48 and
49 and
50 and

2 public and private health sectors and one of whom
3 represents low-income people in this State; and

4 (4) The Governor, the President of the Senate and the
5 Speaker of the House of Representatives shall jointly
6 agree on the appointment of a representative of small
7 employers with 20-50 employees, a representative of a
8 nonprofit community development financial institution
9 that assists small businesses in the State, a
10 representative of health care consumers, a health
11 economist and a representative of health care providers.

12 B. Members shall serve 3-year terms. Members may serve up
13 to 3 consecutive terms. Of the initial appointees, the 5
14 members appointed by joint agreement of the Governor, the
15 President of the Senate and the Speaker shall serve initial
16 terms of 2 years.

17 C. The commissioner is an ex officio nonvoting member of
18 the board.

19 D. Vacancies must be filled by the remaining members of the
20 board for the remainder of the unexpired term. The board
21 shall select a member to fill a vacancy from a list of
22 nominations submitted by the appointing officer of the
23 member whose seat is to be filled.

24 E. Board members shall elect a chair. All meetings of the
25 board are public meetings within the meaning of Title 1,
26 chapter 13, subchapter I.

27 F. Board members are entitled to reimbursement for
28 necessary expenses according to the provisions of Title 5,
29 chapter 379.

30 G. Initial appointments must be made no later than August
31 15, 2002.

32 3. Powers and duties. The board may take action in
33 accordance with the following provisions.

34 A. The board shall design, implement and oversee the plan.
35 The board may design a comprehensive managed care plan or a
36 comprehensive indemnity plan or both that complies with the
37 provisions of this chapter.

38 B. The board shall contract with a qualified bidder to
39 provide health care coverage or act as administrator for
40 health care coverage under the plan pursuant to subsection 5.

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2 C. The board, in consultation with the department, may
4 establish conditions for enrollment and participation by
6 eligible small employers. These conditions must require
8 employers to offer enrollment to all employees and their
10 spouses and dependents who are not enrolled in another
12 health plan.

14 D. The board shall negotiate rates with participating
16 providers for health care services rendered under the plan.
18 The rates must be sufficient to ensure adequate access to
20 health care services to those employers and employees
22 enrolled in the plan. The rates may not be less than
24 current reimbursement rates under the Medicaid program.

26 E. The board shall regularly review rates and benefits
28 provided under the plan and the financial stability of the
30 plan and shall propose by rule any adjustments considered
32 necessary.

34 F. The board may contract with qualified 3rd parties for
36 any service necessary to carry out the purposes of this
38 chapter, employ necessary staff and set up a suitable office.

40 G. Until the board is able to contract or make other
42 arrangements for staffing and services, the board may call
44 upon the department and the Office of Fiscal and Program
46 Review for staffing and services within the department's and
48 the Legislature's current available resources.

50 H. The board may accept grant funding from any public or
private sources identified by the board or department.

I. The board may receive any funds necessary, not to exceed
\$1,000,000, as a working capital advance for initial
operating expenses in administering the plan.
Notwithstanding section 2861, subsection 9, these funds may
be transferred from the Maine Rx Dedicated Fund, as
established in section 2861, subsection 9, or other sources
identified by the department or board and, if transferred,
must be repaid no later than 2 years following start-up of
the plan.

J. The board may obtain stop loss or excess insurance
coverage if necessary. The department shall coordinate its
medically needy program under Medicaid so as to maximize
Medicaid in a manner that will most effectively reduce the
potential liability of the reinsurance plan.

K. The board shall establish a loss ratio for health care
coverage through the plan. The board shall increase the

2 loss ratio periodically in order to achieve a maximum level
3 of administrative efficiency.

4 L. The board shall establish reserves at levels sufficient
5 to protect the enrollees and ensure the fiscal solvency of
6 the plan.

8 M. The board shall develop a statewide marketing plan. The
9 marketing plan must be designed to inform employers and
10 employees of eligibility requirements under the plan. The
11 marketing plan must use insurance producers, consumer
12 organizations, toll-free help lines, the department and
13 health care providers as well as using other methods to
14 achieve awareness of and participation in the plan to the
15 greatest extent possible.

16 N. Beginning April 1, 2004, and annually thereafter, the
17 board shall report to the joint standing committee of the
18 Legislature having jurisdiction over health insurance
19 matters and the joint standing committee of the Legislature
20 having jurisdiction over human services matters on the
21 impact of the plan on the overall small group market. The
22 board shall also report on the extent of coverage, the
23 effect on premiums, the number of covered lives, the number
24 of policies issued or renewed and the amount of premiums
25 earned and claims incurred.

26 4. Business plan. Before implementation of the plan, the
27 board shall develop a business plan, including an actuarial and
28 marketing analysis describing the request-for-proposal process,
29 implementation of the plan and other customary requirements, that
30 meets the requirements of this subsection.

31 A. By September 1, 2002, the board shall initiate planning
32 and research for the development of the plan by contracting
33 with health policy and economics experts. The initial
34 planning and research must address, consistent with this
35 chapter, at least the following information:

36 (1) The potential pool of enrollees in the plan, the
37 cost of providing them health care and proposed
38 participation goals for enrollment;

39 (2) A sample of potential provider rate schedules
40 designed to control costs and provide access while
41 fairly addressing the costs of providing medical care
42 in the State;

2 (3) Sample contribution and cost-sharing rate
schedules for small employers, employees and their
dependents;

4 (4) The financial savings realized from coordinating
with Medicaid and the method of that coordination; and

6 (5) The level of reserves and amount of stop loss or
excess insurance coverage needed.

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10 B. The board, in conjunction with the department, is
12 required to prepare and submit as part of the business plan
14 any federal Medicaid waivers that will be necessary to
16 implement the plan. The department shall submit and pursue
 any necessary waivers in preparation for the Legislature's
 review of the business plan.

18 5. Purchase of health care coverage. The board shall issue
20 a request for proposals that solicits bids from qualified bidders
22 to provide health care coverage or act as administrator for
 health care coverage for small employers, their employees and
 dependents enrolled in the plan.

24 A. At a minimum, the request for proposals must require
26 bids to provide health care coverage for a benefit package
 actuarially equivalent to the health care plan provided to
28 State employees as of December 31, 2001 pursuant to Title 5,
30 section 285 and any other benefit package designed by the
 board. The bids must otherwise comply with the requirements
 of this chapter.

32 B. The department shall submit a bid to provide health care
34 coverage or act as the administrator of health care coverage
 under this chapter and include an adequate plan for
36 capitalization.

38 C. Health insurers, nonprofit hospital and medical service
40 organizations or health maintenance organizations licensed
 pursuant to Title 24 or Title 24-A may submit bids pursuant
 to this subsection.

42 D. The board shall issue the request for proposals under
44 this subsection by August 1, 2003 and make a bid award to a
 qualifying bidder or bidders no later than October 1, 2003.
46 The initial award must be for a period of 2 years. The
 board may extend its contract with the winner of the initial
48 bid for an additional 2-year period without a competitive
 bid process. After one extension, the board shall initiate
50 a competitive bid process for future contracts.

§3163. Contributions; payment for coverage

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4 **1. Contributions.** The board shall establish contributions
6 for enrolled employers, employees and their dependents.
8 Employers shall pay the cost of the contribution except for that
10 portion, if any, of the contribution permitted by the board to be
12 charged to the employee. Enrolled employers may require that
14 their employees make a contribution toward the cost of coverage
16 under this plan in compliance with the contribution limits set by
18 the board under subsection 2.

20
22 **2. Maximum employee contributions.** The board shall set a
24 maximum employee contribution on a sliding fee scale based on the
26 employee's income, except that:

28 A. An enrolled employee with family income below 150% of
30 the nonfarm income official poverty line may not be required
32 to pay a contribution for coverage of that employee or
34 dependent, or any other cost sharing in excess of the amount
36 allowable under the Medicaid program;

38 B. A pregnant woman with income below 200% of the nonfarm
40 income official poverty line may not be required to pay a
42 contribution for coverage of herself, or any other cost
44 sharing in excess of the amount allowable under the Medicaid
46 program;

48 C. An enrolled employee with income between 150% and 200%
50 of the nonfarm income official poverty line may not be
required to pay a contribution in excess of that required by
section 3174-T, subsection 5 for a dependent child under 19
years of age; and

D. An enrolled employee with income below 300% of the
nonfarm income official poverty line not included in
paragraphs A to C may not be required to pay an aggregate
contribution for all family members in excess of 5% of the
enrolled employee's family income.

§3164. Coordination with Medicaid

The department shall maximize the use of federal funds
available through the Medicaid program to provide health care
coverage to all individuals enrolled in the plan who are or could
become eligible for Medicaid pursuant to 42 United States Code
Sections 1396a (r) (2), 1396u-1 or 1397bb. For enrollees and
dependents eligible for Medicaid with income below 200% of the
federal nonfarm income official poverty line, health care
services provided by Medicaid must continue to be provided in
coordination with health care services covered under the plan.

2 The department shall apply for any necessary federal Medicaid
3 waivers to provide health care coverage through the plan or to
4 extend coverage to any individuals who do not meet the
5 categorical eligibility requirements of the Medicaid program but
6 for whom a waiver might reasonably be granted. Contribution
7 payments must be structured and paid in a manner most likely to
8 permit matching those payments with federal dollars.

10 **§3165. Application of insurance laws**

11 Health care coverage offered through the plan must comply
12 with all requirements of Title 24-A applicable to small group
13 health plans, including, but not limited to, mandated benefits,
14 section 2808-B, chapter 36 and chapter 56-A.

16 **§3166. Data collection**

17 The administrator shall report to the board and the Maine
18 Health Data Organization, established under section 8703. The
19 plan is subject to the same reporting requirements as a 3rd-party
20 payor under section 1683.

22 **§3167. Rules**

23 The board may adopt rules necessary to administer the plan.
24 Rules adopted pursuant to this chapter are routine technical
25 rules as defined in Title 5, chapter 375, subchapter II-A.

28 **§3168. Operation**

29 Health care coverage through the plan must be available to
30 enrolled employers and their employees beginning January 1, 2004.

34 **§3169. Repeal**

35 This chapter is repealed December 31, 2008.

38 **Sec. 2. 22 MRSA §8702, sub-§11**, as enacted by PL 1995, c. 653,
39 Pt. A, §2 and affected by §7, is amended to read:

40 **11. Third-party payor.** "Third-party payor" means a health
41 insurer, nonprofit hospital, medical services organization or
42 managed care organization licensed in the State or the plan
43 established in chapter 854. Third-party payor does not include
44 carriers licensed to issue limited benefit health policies or
45 accident, specified disease, vision, disability, long-term care,
46 nursing home care or Medicare supplement policies.

48 **Sec. 3. Report to Legislature.** The Board of Directors of the
49 Maine Small Business Health Coverage Plan shall submit an
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interim report on the development of the business plan developed pursuant to the Maine Revised Statutes, Title 22, section 3162, subsection 4 to the joint standing committee of the Legislature having jurisdiction over health insurance matters no later than November 30, 2002. The board shall submit its final business plan to the joint standing committee of the Legislature having jurisdiction over health insurance matters no later than December 31, 2002. The joint standing committee shall review and comment on the business plan no later than March 1, 2003. The committee shall report out legislation to the First Regular Session of the 121st Legislature approving the board's business plan and affirming the Legislature's enactment of Title 22, chapter 854. If, before adjournment of the First Regular Session, the Legislature fails to act on the business plan submitted to it for approval, the board may implement the business plan and begin operation of the Maine Small Business Health Coverage Plan pursuant to Title 22, chapter 854.

Sec. 4. Department of Human Services awarded bid. If the Department of Human Services is awarded the bid to provide health care coverage or act as administrator for health care coverage pursuant to the Maine Revised Statutes, Title 22, chapter 854, the Board of Directors of the Maine Small Business Health Coverage Plan shall notify the joint standing committee of the Legislature having jurisdiction over health insurance matters no later than October 1, 2003. The committee may report out legislation to the Second Regular Session of the 121st Legislature to alter or amend the provisions of the Maine Revised Statutes, Title 22, chapter 854.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

HUMAN SERVICES, DEPARTMENT OF

Maine Small Business Health Coverage Plan

Initiative: Provides a base allocation in the event Other Special Revenue funds are received to administer the Maine Small Business Health Coverage Plan.

Other Special Revenue Funds	2001-02	2002-03
All Other	\$0	\$500'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

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2002-03

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APPROPRIATIONS/ALLOCATIONS

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Other Funds \$500

8

The bill creates the Maine Small Business Health Coverage Plan to provide health care coverage to small employers. The plan would operate under the supervision of the Maine Small Business Health Coverage Board of Directors and in coordination with the Department of Human Services.

14

The bill authorizes the board to receive a working capital advance up to \$1,000,000 from the Maine Rx Dedicated Fund for the initial operating expenses in administering the plan. The advance must be repaid within 2 years of the start of the plan. The Maine Rx Dedicated Fund is itself financed by funds advanced from the Fund for a Healthy Maine. The amount and timing of the transfer from the Maine Rx Dedicated Fund will depend on decisions of the board and on market conditions and can not be estimated at this time. The bill includes an Other Special Revenue funds allocation of \$500 to the Department of Human Services to establish a base allocation to authorize the expenditure of funds in fiscal year 2002-03.

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Staffing assistance is to be provided by the Department of Human Services and the Office of Fiscal and Program Review until the board of directors is able to contract or make other arrangements for such services. The Department of Human Services will incur some minor costs to staff the new board. These costs can be absorbed within the department's existing budgeted resources. If the board requests staffing assistance during the legislative session, the Legislature will require an additional General Fund appropriation to contract for the required staff services.

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The Bureau of Insurance in the Department of Professional and Financial Regulation will incur some minor additional costs to regulate the Maine Small Business Health Coverage Plan. These costs can be absorbed within the bureau's existing budgeted resources.'

44

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SUMMARY

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This amendment replaces the bill and changes the bill title. It establishes the Maine Small Business Health Coverage Plan to provide health care coverage to small employers,

COMMITTEE AMENDMENT "A" to H.P. 1324, L.D. 1784

2 including self-employed individuals, and their employees and
dependents. The plan operates under the supervision of a board
4 of directors and in coordination with the Department of Human
Services. The amendment requires the board to submit a business
6 plan to implement the health coverage program and any necessary
federal waivers to the Legislature for affirmative approval
8 before the program begins operation. The amendment repeals the
program in 6 years unless the program is continued by the
Legislature. The amendment also adds an appropriations and
10 allocations section and a fiscal note to the bill.

COMMITTEE AMENDMENT