

MAINE STATE LEGISLATURE

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L.D. 2146

DATE: *April 1, 2002* (Filing No. S-530)

BANKING AND INSURANCE

Reported by:

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**STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT " " to S.P. 793, L.D. 2146, Bill, "An Act to Establish the Maine Consumer Choice Health Plan"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 2 MRSA §6, sub-§2, as amended by PL 1999, c. 731, Pt. F, §1; PL 2001, c. 44, §11 and affected by §14; and amended by c. 354, §3, is further amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Financial Institutions;

State Tax Assessor;

Superintendent of Insurance;

Executive Director of the Maine Consumer Choice Health Plan;

Associate Commissioner for Programs, Department of Behavioral and Developmental Services;

Associate Commissioner of Administration, Department of Behavioral and Developmental Services;

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- 2 Associate Commissioner for Systems Operations, Department of Behavioral and Developmental Services;
- 4 Deputy Commissioner, Department of Administrative and Financial Services;
- 6 Associate Commissioner for Adult Services, Department of Corrections;
- 8 Associate Commissioner for Juvenile Services, Department of Corrections;
- 10 Public Advocate;
- 12 Chief Information Officer; and
- 14 Associate Commissioner for Legislative and Program Services, Department of Corrections.

20 **Sec. 2. 5 MRSA §12004-G, sub-§21-B** is enacted to read:

22	<u>21-B.</u>	<u>Board of</u>	<u>Expenses</u>	<u>24-A MRSA</u>
24	<u>Insurance</u>	<u>Directors</u>	<u>Only</u>	<u>\$4346</u>
26		<u>of the Maine</u>		
28		<u>Consumer</u>		
		<u>Choice Health</u>		
		<u>Plan</u>		

30 **Sec. 3. 24-A MRSA c. 56-B** is enacted to read:

CHAPTER 56-B

MAINE CONSUMER CHOICE HEALTH PLAN

§4346. Maine Consumer Choice Health Plan

36 **1. Definitions.** As used in this chapter, unless the
38 context otherwise indicates, the following terms have the
40 following meanings.

42 A. "Board" means the Board of Directors of the Maine
44 Consumer Choice Health Plan established in Title 5, section
46 12004-G, subsection 21-B.

48 B. "Carrier" means:

50 (1) An insurance company licensed in accordance with
this Title to provide health insurance;

(2) A health maintenance organization licensed pursuant
to chapter 56;

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2 (3) A fraternal benefit society as defined by section
3 4101; or

4 (4) A nonprofit hospital and medical service
5 organization or nonprofit health care service
6 organization licensed pursuant to Title 24.

8 C. "Director" means the Executive Director of the Maine
9 Consumer Choice Health Plan.

10 D. "Eligible employee" or "employee" means an individual
11 who:

12 (1) Meets the definition of "eligible employee" set
13 forth in section 2808-B, subsection 1, paragraph C;

14 (2) Is a self-employed individual who:

15 (a) Works and resides in the State; and

16 (b) Is organized as a sole proprietorship or in
17 any other legally recognized manner that a
18 self-employed individual may organize, a
19 substantial part of whose income derives from a
20 trade or business through which the individual has
21 attempted to earn taxable income, and who has
22 filed the appropriate United States Internal
23 Revenue Service form for the previous taxable
24 year, and for whom a copy of the appropriate
25 United States Internal Revenue Service form or
26 forms and schedule has been filed with the plan or
27 its administrator; or

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

35 E. "Fund" means the Maine Consumer Choice Health Plan Fund.

36 F. "Plan" means the Maine Consumer Choice Health Plan
37 established in this section.

38 G. "Small employer" means an eligible group as defined in
39 section 2808-B, subsection 1, paragraph D.

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2 2. Plan established. The Maine Consumer Choice Health Plan
is established as an independent executive agency to negotiate
and contract with carriers to provide a board-authorized choice
4 of health benefits coverage to eligible enrollees.

6 On or before January 1, 2006, the board shall initiate a request
for proposal process seeking proposals from qualified nonprofit
8 organizations for assumption of the administrative and financial
responsibility of the plan. If the board determines that a
10 qualified organization exists, the board, in conjunction with the
Governor, shall submit any necessary legislation to accomplish
12 the transfer of the functions of the plan to a nonprofit
organization.

14 3. Board of directors. The plan operates under the
16 supervision of the Board of Directors of the Maine Consumer
Choice Health Plan, which consists of 5 voting members.

18 A. The Governor shall appoint to the board one member
20 representing large employers, 2 members representing small
employers, one member representing governmental entities and
22 one member representing consumer health care organizations.
Appointments by the Governor are subject to review by the
24 joint standing committee of the Legislature having
jurisdiction over health insurance matters and to
26 confirmation by the Legislature.

28 B. Initial terms of the members of the board are staggered:
30 3 members serve 3-year terms and 2 members serve 2-year
terms. After the initial terms, members serve full 2-year
32 terms and continue to serve until their successors have been
appointed. Board members may serve up to 3 full terms
34 consecutively.

36 C. Board members shall elect a chair. All meetings of the
board are public proceedings within the meaning of Title 1,
38 chapter 13, subchapter I.

40 D. Board members are entitled to reimbursement for
necessary expenses according to the provisions of Title 5,
42 chapter 379.

44 4. Executive director. The Executive Director of the Maine
Consumer Choice Health Plan is the administrator of the plan. The
46 director is appointed by the board and serves at the pleasure of
the board.

48 5. Powers. The board may:

50 A. Enter into contracts with qualified 3rd parties for any
service necessary to carry out the purposes of this chapter;

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- 2 B. Employ necessary staff;
- 4 C. Authorize benefit plan designs offered by participating
6 carriers in accordance with subsection 7 and all applicable
 statutes and rules;
- 8 D. Establish membership fees in accordance with subsection
10 9 to support the administrative expenses of the plan;
- 12 E. Provide, if approved by the board, premium collection
14 services for participating carriers with respect to health
16 benefit plans offered through the plan if the carrier
 offering the health benefit plan gives express written
 authorization to the board or any other entity acting on
 behalf of the board to act as the carrier's agent for that
18 purpose;
- 20 F. Establish procedures for adjusting payments within each
22 risk pool to participating carriers if the board finds that
 some participating carriers have a significantly
 disproportionate share of high-risk or low-risk enrollees;
- 24 G. Establish a financial relationship directly with
26 producers licensed pursuant to chapter 16 to market health
 benefit plans offered through the plan;
- 28 H. Receive any funds necessary, not to exceed \$750,000, as
30 a working capital advance for initial operating expenses in
32 administering the plan. The funds for the working capital
34 advance may be transferred from the Maine Rx Dedicated Fund,
 established in Title 22, section 2681, notwithstanding Title
 22, section 2681, subsection 9, or another source identified
 by the State Controller, and, if transferred, must be repaid
36 within 2 years of start-up of the plan;
- 38 I. Accept grant funding from any public or private sources
 identified by the board;
- 40 J. Perform all lawful acts necessary or convenient in the
42 exercise of any power, authority or jurisdiction over the
 plan, either in the administration of the plan or to fulfill
 the purpose of the plan as set forth in this chapter;
- 44 K. Undertake activities necessary to administer the plan,
46 including marketing and publicizing the plan and ensuring
 carrier and enrollee compliance with plan requirements; and
- 48 L. Adopt rules as necessary to administer the plan. Rules
50 adopted pursuant to this paragraph are routine technical
 rules as defined in Title 5, chapter 375, subchapter II-A,

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2 except that rules adopted relating to the establishment of a
3 risk adjustment mechanism or risk pools pursuant to
4 paragraph F and subsection 10 are major substantive rules as
5 defined in Title 5, chapter 375, subchapter II-A and must be
6 submitted to the Legislature on or before January 1, 2004.

7 6. Participating carriers; contracts. The board shall
8 develop objective criteria for the selection of participating
9 carriers and provide adequate notice of the application process
10 to permit all carriers a reasonable and fair opportunity to
11 participate. The selection of participating carriers must be
12 based on the criteria developed by the board.

13 7. Selection of health plans. The board shall require
14 carriers to offer multiple health plans to ensure that enrollees
15 have a choice among carriers and types of health benefit plans in
16 accordance with this subsection.

17 A. The plan must offer, at a minimum, a fee-for-service
18 plan, a managed care plan and a point-of-service plan. These
19 health benefit plans may offer a range of deductibles, and
20 must include at least one plan with a high deductible. The
21 plan may offer other health plans in accordance with
22 applicable state or federal law.

23 B. To the extent possible, the plan must ensure that at
24 least one plan offered pursuant to this subsection is
25 available to enrollees in all geographic areas of the State.

26 8. Enrollee eligibility. The board may establish
27 conditions for enrollment and participation for enrollees in
28 accordance with this subsection.

29 A. Small employers are eligible. Employers that choose to
30 participate in the plan shall offer enrollment to all
31 employees and their dependents who are not enrolled in
32 another health plan.

33 B. Governmental and municipal employers are eligible.

34 C. Individuals not enrolled in another health plan may
35 participate.

36 D. Conditions for eligibility may not be based on health
37 status.

38 E. Eligibility may be extended at the board's discretion to
39 employers with 51 or more employees with the approval of the
40 Legislature. In the event that the board seeks to extend
41 eligibility to employers with 51 or more employees, the
42 board shall first seek approval from the Legislature.

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2 board shall notify the joint standing committee of the
3 Legislature having jurisdiction over health insurance
4 matters. The joint standing committee of the Legislature
5 having jurisdiction over health insurance matters may submit
6 legislation to extend eligibility to employers with 51 or
7 more employees under this chapter.

8 **9. Contributions.** The board shall establish contributions
9 for participation in the plan, including any membership fees and
10 premiums for health coverage. Enrolled employers shall determine
11 the annual amount, if any, contributed by the employer toward the
12 premium cost of health coverage under the plan for employees and
13 their dependents. The board may establish a mechanism to collect
14 contributions from enrolled employers, including remittance of
15 the share of any premium paid by an employee. The board may
16 coordinate with Maine Revenue Services to develop a mechanism for
17 collection of contributions.

18 **10. Risk pools.** The board shall develop standards for
19 classifying groups of participating enrollees into risk pools.
20 The board may establish one or more risk pools consistent with
21 rules adopted by the superintendent for private purchasing
22 alliances pursuant to chapter 18-A.

23 **11. Cost, quality and value measures.** The board shall
24 develop and publish objective cost, quality and value measures.
25 The board shall also consider such measures in adopting
26 authorization criteria for health plans.

27 **12. Licensing; regulation.** Notwithstanding any other
28 provision of law, the plan is not subject to licensure as an
29 insurer pursuant to this Title. Carriers that contract with the
30 plan must be licensed pursuant to Title 24 or this Title. Health
31 plans offered by participating carriers must comply with all
32 applicable requirements of statutes and rules. Except to the
33 extent inconsistent with this chapter, producers and carriers
34 engaged in activities pursuant to this chapter are subject to all
35 provisions of Title 24 and this Title. Rates for health benefit
36 plans provided to enrollees in the plan by participating carriers
37 are not subject to sections 2736, 2736-A and 2736-B.

38 **13. Marketing.** The board shall approve and make available
39 to potential enrollees educational and marketing materials,
40 health benefit plan descriptions, enrollee satisfaction survey
41 results and comparison sheets that accurately summarize the
42 requirements for eligibility and the health benefit plans and
43 premiums offered by participating carriers in the plan. The
44 information provided must enable enrollees and potential
45 enrollees to make informed decisions regarding their enrollment
46 in the plan and their choice of a health benefit plan.

Refs.

Participating carriers may not provide any marketing materials to potential enrollees relating to benefits and

14. Enrollee satisfaction survey. On an annual basis, the board shall develop a survey to monitor the satisfaction of enrollees participating in the plan. The results of the survey must be made available to enrollees and the public.

15. Fund. The Maine Consumer Choice Health Plan Fund is created as a dedicated fund for the deposit of any funds advanced for initial operating expenses and fees paid by enrollees for administration of the plan. The fund may not lapse, but remains in a continuing carrying account to carry out the purposes of this chapter.

16. Annual report. Beginning February 1, 2003 and annually on or before February 1st thereafter, the board shall submit a report on the operation of the plan to the joint standing committee of the Legislature having jurisdiction over health insurance matters. The report must include information relating to the carriers participating in the plan; the health benefit plans offered through the plan and their premium rates; the total number of enrollees participating in the plan and sorted as to employer size; and the administrative and operating expenses of the plan.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

Maine Consumer Choice Health Plan

Initiative: Provides a base allocation in the event Other Special Revenue funds are received to operate the Maine Consumer Choice Health Plan. Also adds the Executive Director of the Maine Consumer Choice Health Plan position.

Other Special Revenue Funds	2001-02	2002-03
Positions - Legislative Count	(0.000)	(1.000)
Personal Services	\$0	\$500
All Other	0	500
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Total	\$0	\$1,000'

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

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FISCAL NOTE

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2002-03

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APPROPRIATIONS/ALLOCATIONS

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Other Funds \$1,000

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The bill establishes the Maine Consumer Choice Health Plan as an independent executive agency to negotiate and provide health coverage to residents of Maine. The plan would operate under the supervision of a new Board of Directors and a new Executive Director.

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The bill authorizes the plan to receive any funds necessary, not to exceed \$750,000, as a working capital advance. Funds may be transferred from the Maine Rx Dedicated Fund and other sources identified by the State Controller. Transferred funds must be repaid in 2 years. The Maine Rx Dedicated Fund is itself financed by funds advanced from the Fund for a Healthy Maine. The amount and timing of the advances to the Maine Consumer Choice Health Plan will depend on decisions made by the board and the Executive Director and therefore can not be estimated at the present time. The bill includes an Other Special Revenue funds allocation of \$500 to establish a base allocation to authorize the expenditure of funds in fiscal year 2002-03. The bill also includes a base allocation of \$500 in fiscal year 2002-03 to create the Executive Director position.

30

The additional costs associated with submitting any legislation and appointing members to the board can be absorbed by the Office of the Governor within the Executive Department utilizing existing budgeted resources.

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The bill entitles board members to reimbursement for necessary expenses according to the provisions of the Maine Revised Statutes, Title 5, chapter 379.'

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SUMMARY

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This amendment replaces the bill. It establishes the Maine Consumer Choice Health Plan as an independent executive agency to act as a purchasing alliance open to individuals and small employers. The Maine Consumer Choice Health Plan is governed by a 5-member board of directors appointed by the Governor and confirmed by the Legislature. The Maine Consumer Choice Health Plan is required to contract with participating health insurance

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carriers to offer at least 3 health benefit plans to enrollees, a fee-for-service plan, a managed care plan and a point-of-service plan. The amendment also adds a fiscal note to the bill.

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