

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1175

H.P. 872

House of Representatives, March 5, 2003

An Act To Improve the Affordability of Individual and Small Group Health Insurance

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative O'NEIL of Saco.

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

2
4 **Sec. 1. 24-A MRSA §2413, sub-§1. ¶F.** as amended by PL 1991, c. 211, §2, is further amended to read:

6 F. As to Medicare supplement policies or contracts, as
8 defined in chapter 67, if the policy cannot be anticipated,
10 as estimated for the entire period for which rates are to be
12 computed to provide coverage, on the basis of incurred
14 claims experience and earned premiums for that period and in
16 accordance with accepted actuarial principles and practices,
to return to policyholders in the form of aggregate benefits
provided under the policy at least 65% 85% of the aggregate
amount of premiums collected in the case of individual
policies and at least 75% 85% of the aggregate amount of
premiums collected in the case of group policies; or

18 **Sec. 2. 24-A MRSA §2736-C, sub-§2. ¶D.** as amended by PL 2001,
20 c. 410, Pt. A, §2 and affected by §10, is further amended to read:

22 D. A carrier may vary the premium rate due to age,
24 occupation or industry and geographic area only under the
following schedule and within the listed percentage bands.

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

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

38 (3) For all policies, contracts or certificates that
40 are executed, delivered, issued for delivery, continued
42 or renewed in this State ~~after~~ from July 15, 1995 to
October 15, 2003, the premium rate may not deviate
above or below the community rate filed by the carrier
by more than 20%.

44 (4) For all policies, contracts or certificates that
46 are executed, delivered, issued for delivery, continued
48 or renewed in this State on or after October 15, 2003,

2 the premium rate may not deviate above or below the
3 community rate filed by the carrier.

4 **Sec. 3. 24-A MRSA §2736-C, sub-§2, ¶E,** as amended by PL 1999,
5 c. 44, §1 and affected by §2, is repealed.

6 **Sec. 4. 24-A MRSA §2736-C, sub-§5.** as enacted by PL 1993, c.
7 477, Pt. C, §1 and affected by Pt. F, §1, is amended to read:

10 **5. Loss ratios.** For all policies issued on or after the
11 ~~effective date of this section~~ October 15, 2003, the
12 superintendent shall disapprove any premium rates filed by any
13 carrier, whether initial or revised, for an individual health
14 policy unless it is anticipated that the aggregate benefits
15 estimated to be paid under all the individual health policies
16 maintained in force by the carrier for the period for which
17 coverage is to be provided will return to policyholders at least
18 65% 85% of the aggregate premiums collected for those policies,
19 as determined in accordance with accepted actuarial principles
20 and practices and on the basis of incurred claims experience and
21 earned premiums.

22 **Sec. 5. 24-A MRSA §2736-C, sub-§9, ¶C,** as enacted by PL 1995,
23 c. 570, §7, is amended to read:

26 C. The group's anticipated loss ratio, as defined in
27 subsection 5, is at least 75% 85%;

28 **Sec. 6. 24-A MRSA §2736-C, sub-§10** is enacted to read:

30 **10. Reinsurance mechanism.** Carriers providing individual
31 health insurance plans must participate in a reinsurance pool for
32 the purpose of reinsuring individual risks. The participants in
33 the pool shall guarantee, without limitation, the solvency of the
34 pool. That guarantee constitutes a permanent financial
35 obligation of each participant on a pro rata basis.

38 **Sec. 7. 24-A MRSA §2808-B, sub-§2, ¶D,** as amended by PL 2001,
39 c. 410, Pt. A, §4 and affected by §10, is further amended to read:

42 D. A carrier may vary the premium rate due to age,
43 occupation or industry and geographic area only under the
44 following schedule and within the listed percentage bands.

46 (1) For all policies, contracts or certificates that
47 are executed, delivered, issued for delivery, continued
48 or renewed in this State between July 15, 1993 and July
 14, 1994, the premium rate may not deviate above or

2 below the community rate filed by the carrier by more
than 50%.

4 (2) For all policies, contracts or certificates that
6 are executed, delivered, issued for delivery, continued
8 or renewed in this State between July 15, 1994 and July
10 14, 1995, the premium rate may not deviate above or
below the community rate filed by the carrier by more
than 33%.

12 (3) For all policies, contracts or certificates that
14 are executed, delivered, issued for delivery, continued
16 or renewed in this State ~~after~~ from July 15, 1995 to
October 15, 2003, the premium rate may not deviate
above or below the community rate filed by the carrier
by more than 20%, except as provided in paragraph D-1.

18 (4) For all policies, contracts or certificates that
20 are executed, delivered, issued for delivery, continued
22 or renewed in this State on or after October 15, 2003,
the premium rate may not deviate above or below the
community rate filed by the carrier.

24 **Sec. 8. 24-A MRSA §2808-B, sub-§2. ¶D-1**, as amended by PL 2001,
26 c. 410, Pt. A, §5 and affected by §10, is further amended to read:

28 D-1. With respect to eligible groups that employed, on
30 average, 25 to 50 eligible employees in the preceding
32 calendar year, a carrier may vary the premium rate due to
age, occupation or industry and geographic area only under
the following schedule and within the listed percentage
bands.

34 (1) For all policies, contracts or certificates that
36 are executed, delivered, issued for delivery, continued
38 or renewed in this State in 1998, the premium rate may
not deviate above or below the community rate filed by
the carrier by more than 40%.

40 (2) For all policies, contracts or certificates that
42 are executed, delivered, issued for delivery, continued
44 or renewed in this State in 1999, the premium rate may
not deviate above or below the community rate filed by
the carrier by more than 30%.

46 (3) For all policies, contracts or certificates that
48 are executed, delivered, issued for delivery, continued
or renewed in this State ~~after~~ from January 1, 2000 to
October 15, 2003, the premium rate may not deviate

2 above or below the community rate filed by the carrier
3 by more than 20%.

4 (4) For all policies, contracts or certificates that
5 are executed, delivered, issued for delivery, continued
6 or renewed in this State on or after October 15, 2003,
7 the premium rate may not deviate above or below the
8 community rate filed by the carrier.

10 **Sec. 9. 24-A MRSA §2808-B, sub-§6, ¶1,** as enacted by PL 1993,
11 c. 477, Pt. B, §3 and affected by Pt. F, §1, is amended to read:

12
13 I. Notwithstanding any other provision of this section, a
14 carrier ~~may choose whether it will~~ shall offer to groups
15 having only one member coverage ~~under the carrier's~~
16 ~~individual health policies offered to other individuals in~~
17 ~~this State in accordance with section 2736-C or coverage~~
18 under a small group health plan in accordance with this
19 section, ~~or both, but the carrier need not offer to groups~~
20 ~~of one both small group and individual health coverage.~~

22 **Sec. 10. 24-A MRSA §2808-B, sub-§8,** as repealed by PL 2001, c.
23 410, Pt. A, §7, is reenacted to read:

24
25 **8. Standardized plans.** The superintendent shall by rule
26 define 2 standardized small group health plans that must be
27 offered by all carriers offering small group health plans in the
28 State. An association group organized pursuant to section 2805-A
29 or a trustee group organized pursuant to section 2806 may offer
30 one or both plans to its subgroups. The plans must consist of a
31 standard plan and a basic plan. Both plans must meet the
32 requirements for mandated coverage for specific health services,
33 specific diseases and for certain providers of health services
34 under Title 24 and this Title applicable to small group health
35 plans. As used in this subsection:

36
37 A. "Standard plan" means a plan that is similar to those
38 plans typically sold to small employers; and

39
40 B. "Basic plan" means a plan that emphasizes preventative
41 care and that contains reasonable but lesser benefits than
42 the standard plan to the extent necessary to reduce the
43 anticipated cost of the plan by 20%.

44
45 The premium rate charged by a carrier for the basic plan may not
46 exceed 80% of the corresponding premium rate charged by that
47 carrier for the standard plan.

2 A health maintenance organization authorized pursuant to chapter
3 56 may impose penalties in its 2 standardized small group health
4 plans through its utilization review procedures that apply per
5 admission or per encounter. Those penalties must be consistent
6 with the normal requirements applicable to benefits in that
7 health maintenance organization.

8 **Sec. 11. 24-A MRSA §2808-B. sub-§9.** as enacted by PL 1993, c.
9 325, §1, is repealed and the following enacted in its place:

10 **9. Reinsurance mechanism.** Small group carriers shall
11 participate in a reinsurance pool for the purpose of reinsuring
12 small group risks. The participants in the plan of operation of
13 the pool shall guarantee, without limitation, the solvency of the
14 pool. That guarantee constitutes a permanent financial
15 obligation of each participant on a pro rata basis.

16
17 **Sec. 12. 24-A MRSA §2808-B. sub-§10** is enacted to read:

18
19 **10. Minimum return of aggregate premiums.** For all policies
20 issued on or after October 15, 2003, the Superintendent of
21 Insurance shall disapprove any premium rates filed by any
22 carrier, whether initial or revised, for a small group health
23 policy unless it is anticipated that the aggregate benefits
24 estimated to be paid under all the health insurance policies
25 maintained in force by the carrier for the period for which
26 coverage is to be provided will return to policyholders at least
27 85% of the aggregate premiums collected for those policies, as
28 determined in accordance with accepted actuarial principles and
29 practices and on the basis of incurred claims experience and
30 earned premiums.

31
32 **Sec. 13. 24-A MRSA §4202-A. sub-§1.** as amended by PL 2001, c.
33 218, §1, is further amended to read:

34
35 **1. Basic health care services.** "Basic health care
36 services" means health care services that an enrolled population
37 might reasonably require in order to be maintained in good health
38 and includes, at a minimum, emergency care, inpatient hospital
39 care, inpatient physician services, outpatient physician
40 services, ancillary services such as x-ray services and
41 laboratory services and all benefits mandated by statute and
42 mandated by rule applicable to health maintenance organizations.
43 The superintendent may adopt rules defining "basic health care
44 services" to be provided by health maintenance organizations. In
45 adopting--such--rules,--the--superintendent--shall--consider--the
46 coverages--that--have--traditionally--been--provided--by--health
47 maintenance--organizations,--the--need--for--flexibility--in--the
48 marketplace,--and--the--importance--of--providing--multiple--options--to
49 employers--and--consumers. The superintendent may ~~not~~ shall require

2 that all health benefit plans offered by health maintenance
3 organizations meet or exceed each of the particular requirements
4 of standard or basic health plans specified in Bureau of
5 Insurance Rule, Chapter 750. ~~The superintendent may select
6 required services from among those set forth in Bureau of
7 Insurance Rule, Chapter 750 and shall permit reasonable, but not
8 excessive or unfairly discriminatory, variations in the
9 copayment, coinsurance, deductible and other features of such
10 coverage, except that these features must meet or exceed those
11 required in benefits mandated by statute.~~ Rules adopted pursuant
12 to this subsection are major substantive rules as defined in
13 Title 5, chapter 375, subchapter II-A 2-A.

14 **Sec. 14. Reinsurance mechanism plan; individual health plans.**

15 That section of this Act that enacts the Maine Revised Statutes,
16 Title 24-A, section 2736-C, subsection 10 does not take effect
17 until the Superintendent of Insurance has approved a plan
18 developed by the Governor's Office of Health Policy and Finance,
19 created by Executive Order 6 FY 02/03, pursuant to rules adopted
20 by the Department of Human Services, Bureau of Medical Services.
21 The plan may permit spreading individual risks evenly over the
22 entire health insurance market through a risk adjustment
23 mechanism that assesses carriers with lower-than-average risks to
24 fund the excess costs of carriers with higher-than-average
25 risks. The plan may allow partial integration of these
26 individual risks with a cap on the increment to group premiums.
27 The plan may not establish a separate health insurance plan,
28 allow carriers to avoid or reject high-risk policyholders, reduce
29 the insured's benefits or increase cost-sharing. The
30 superintendent may approve a plan only after the superintendent
31 determines that the plan is in the public interest and is
32 consistent with this section and Title 24-A, section 2736-C.
33 Rules adopted pursuant to this section are major, substantive
34 rules as defined in Title 5, chapter 375, subchapter 2-A.

36 **Sec. 15. Reinsurance mechanism plan, small group health plans.**

37 That section of this Act that repeals and replaces the Maine
38 Revised Statutes, Title 24-A, section 2808-B, sub-section 9 does
39 not take effect until the Superintendent of Insurance has
40 approved a plan developed by the Governor's Office of Health
41 Policy and Finance, created by Executive Order 6 FY 02/03,
42 pursuant to rules adopted by the Department of Human Services,
43 Bureau of Medical Services. The plan may permit spreading the
44 risks evenly over the entire health insurance market through a
45 risk adjustment mechanism that assesses carriers with
46 lower-than-average risks to fund the excess costs of carriers
47 with higher-than-average risks. The plan may allow partial
48 integration of these small group risks with a cap on the
49 increment to group premiums. The plan may not establish a
50 separate health insurance plan, allow carriers to

2 avoid or reject high-risk policyholders, reduce the insured's
benefits or increase cost-sharing. The superintendent may
4 approve a plan only after the superintendent determines that the
plan is in the public interest and is consistent with this
6 section and Title 24-A, section 2808-B. Rules adopted pursuant
to this section are major, substantive rules as defined in Title
5, chapter 375, subchapter 2-A.

8
Sec. 16. Effective date. That section of this Act that amends
10 the Maine Revised Statutes, Title 24-A, section 2736-C,
subsection 5 takes effect October 15, 2003.

14 SUMMARY

16 Current law allows small group carriers to form a
reinsurance pool for the purpose of reinsuring small group risks.
18 To date, no small group carriers have not taken advantage of this
authorization.

20 This bill requires both individual and small group health
22 plan carriers to participate in a reinsurance pool for their
respective type of insurance. The Department of Human Services,
24 Bureau of Medical Services and the Governor's Office of Health
Policy and Finance, an office created by Executive Order on
26 January 9, 2003, are required to work together to develop a plan
creating the reinsurance pools. The requirement to participate
28 in the reinsurance pools is contingent upon the approval of the
plan by the Superintendent of Insurance.

30 This bill also requires so-called "pure community rating"
32 for both individual and small group health plan carriers,
requires higher amounts of premium dollars to be used for direct
34 medical care and removes statutory authority permitting
high-deductible plans.