

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1181

S.P. 385

In Senate, March 5, 2003

An Act To Provide Fair Hearings in Health Insurance Rate Proceedings

Reference to the Committee on Insurance and Financial Services 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 TREAT of Kennebec.
Cosponsored by Representative KANE of Saco and
Senators: BROMLEY of Cumberland, DOUGLASS of Androscoggin, ROTUNDO of
Androscoggin, Representatives: DUPLESSIE of Westbrook, PIOTTI of Unity.

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

4 **Sec. 1. 24-A MRSA §235-A** is enacted to read:

6 **§235-A. Rate hearings**

8 A rate hearing must be conducted with respect to all filings
10 of rates, rating formulas and modifications for health insurance
policies offered by a carrier in this State in accordance with
the requirements of this section.

12 1. **Criteria for rate hearings.** In any filing of rates,
14 rating formulas and modifications for health insurance policies
when the requested rates or modifications exceed the Consumer
16 Price Index by 100% or more, a rate hearing must be conducted
pursuant to subsection 2.

18 2. **Hearings.** A hearing conducted with respect to rate
20 filings must be held in the manner provided for in Title 5,
chapter 375, subchapter 4 and meet the requirements in this
22 subsection.

24 A. The hearing must be conducted by an impartial
administrative hearing officer other than the superintendent
26 or an employee of the bureau. The hearing officer must have
sufficient qualifications in education and professional
28 experience and training to preside over adjudicatory and
administrative hearings.

30 B. Actuarial staff from the bureau shall provide a written
32 analysis and report to the administrative hearing officer
that includes at least the following:

34 (1) An opinion as to whether the rates requested by
36 the carrier are reasonable relative to the benefits and
coverage offered;

38 (2) Information regarding the impact of the requested
40 rates on affordability for policyholders by age group;
and

42 (3) Identification of any coverage or benefit changes
44 that have occurred during the 2-year period preceding
the date of the rate request that would reduce the
46 risks or costs to the carrier.

48 C. A report submitted pursuant to paragraph B is a public
record as defined in Title 1, section 402, subsection 3 and
50 must be provided to any advocacy panel under subsection 3
involved in a rate hearing at least 40 days prior to the

2 hearing and to the public no later than 30 days prior to the
3 hearing.

4 D. Notwithstanding the requirements for filing in paragraph
5 C, if a hearing officer determines the report provided
6 pursuant to paragraph B does not sufficiently address the
7 information required to be provided in that report, the
8 hearing officer may allow an extension of time for actuarial
9 staff to provide additional information in the report.

10 E. The carrier has the burden to prove that the rates
11 requested are reasonable relative to the benefits and
12 coverage offered.

13 F. A hearing officer shall make a recommended decision to
14 the superintendent after the hearing. The superintendent
15 may accept the decision, accept the decision with
16 modifications or reject the decision recommended by the
17 hearing officer. The superintendent shall notify each party
18 to the hearing of the superintendent's decision and notify
19 each party of the party's right to review or appeal of the
20 decision.

21 3. Advocacy panel. When a rate hearing is required
22 pursuant to subsection 1, the bureau shall impanel an advocacy
23 panel to represent the interests of consumers and the public.
24 The bureau may contract for the services of an advocacy panel if
25 existing staff resources are not adequate to represent the
26 interests of consumers and the public. The carrier making the
27 rate filing shall pay the cost of participation of the advocacy
28 panel.

29 4. Rules. The bureau, after notice and hearing, may adopt
30 rules to implement this section. Rules adopted pursuant to this
31 section are routine technical rules as defined in Title 5,
32 chapter 375, subchapter 2-A.

33 **Sec. 2. 24-A MRSA §2736, sub-§2,** as amended by PL 1997, c.
34 344, §8, is further amended to read:

35 **2. Filing; information.** When a filing is not accompanied
36 by the information upon which the insurer supports such filing,
37 or the superintendent does not have sufficient information to
38 determine whether such filing meets the requirements that rates
39 not be ~~excessive~~ unreasonable relative to the benefits and
40 coverage offered, inadequate or unfairly discriminatory, the
41 superintendent shall require the insurer to furnish the
42 information upon which it supports the filing. A filing and
43 supporting information are public records within the meaning of
44

2 Title 1, section 402, subsection 3 and become part of the
official record of any hearing held pursuant to section 2736-A.

4 **Sec. 3. 24-A MRSA §2736, sub-§3**, as amended by PL 2001, c.
432, §5, is further amended to read:

6
8 **3. Criteria for special rate hearings.** Any Notwithstanding
the requirements of section 235-A, any filing of rates, rating
10 formulas and modifications for Medicare supplement contracts as
defined in chapter 67 and for individual health plans as defined
12 in section 2736-C, subsection 1, paragraph C that satisfies the
criteria set forth in this subsection is subject to the
14 provisions of subsection 4.

16 **Sec. 4. 24-A MRSA §2736, sub-§4, ¶C**, as enacted by PL 1997, c.
344, §8, is amended to read:

18 C. In any hearing conducted under this subsection, the
Bureau of Insurance and any party asserting that the rates
20 are excessive unreasonable relative to the benefits and
coverage offered have the burden of establishing that the
22 rates are excessive unreasonable relative to the benefits
and coverage offered. The burden of proving that rates are
24 adequate and not unfairly discriminatory remains with the
insurer.

26
28 **Sec. 5. 24-A MRSA §2736-A**, as repealed and replaced by PL
1979, c. 558, §8, is amended to read:

30 **§2736-A. Hearing**

32 If at any time the superintendent has reason to believe that
a filing does not meet the requirements that rates shall not be
34 excessive unreasonable relative to the benefits and coverage
offered, inadequate or unfairly discriminatory or that the filing
36 violates any of the provisions of chapter 23, he the
superintendent shall cause a hearing to be held.

38
40 Hearings held under this section shall must conform to the
procedural requirements set forth in ~~the-Maine-Administrative~~
42 ~~Procedure-Act~~, Title 5, chapter 375, subchapter IV 4 and the
requirements of section 235-A.

44 **Sec. 6. 24-A MRSA §2839**, as amended by PL 1985, c. 648, §11,
is further amended to read:

46 **§2839. Rates filed; rate hearings**

48
50 No policy of group health insurance may be delivered in this
State until a copy of the group manual rates to be used in

2 calculating the premium for these policies has been filed ~~for~~
3 ~~informational--purposes~~ with the superintendent. Notwithstanding
4 this section, rates for group Medicare supplement, nursing home
5 care or long-term care insurance contracts must be filed in
6 accordance with section 2736. A hearing must be conducted if the
7 requirements of section 235-A are met.

8 **Sec. 7. 24-A MRSA §4222-B, sub-§21** is enacted to read:

10 21. Sections 235-A, 2736 and 2839, relating to rate filings
11 and hearings, apply to health maintenance organizations.

14 **SUMMARY**

16 This bill requires that a hearing be held before proposed
17 changes in health insurance rates that exceed the Consumer Price
18 Index by 100% or more are approved. It also changes the standard
19 of review from whether the rates are excessive to whether the
20 rates are unreasonable relative to the benefits and coverage
21 offered. The bill requires that the hearing be held before an
22 impartial administrative hearing officer who is not employed by
23 the Department of Professional and Financial Regulation, Bureau
24 of Insurance. The bill also requires that actuarial staff at the
25 Bureau of Insurance prepare a report for use in the hearing.

26 The bill applies to both individual and group health
27 insurance policies and to all carriers, including health
28 maintenance organizations.